

FOR MYSORE STATE

100,000-21-5-52.

Home (1953) Department.

MS. SERIES.

G.O. No.	2809
Dated	3 9 53

Passed
R
in

[Despatch Abstract.]

Suits - S. C. NO. 55/53 as the file of the
South Kanara Suit filed by the Office
bearers of Karkam Nataka Sabha, San
Kanara dt. against the Govt for recovery
of means of rent in respect of the
building taken possession of by police
officers defence - sanctioned

C. P. C. 1.

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA.

S. C. SUIT NO. 55 OF 1953

Konkani Nataka Sabha

Plaintiff

Sri M. VENKATRAYA KAMATH

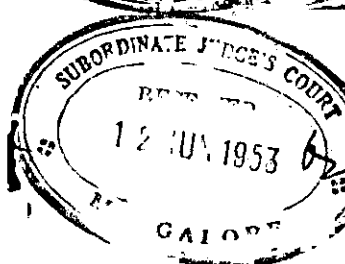
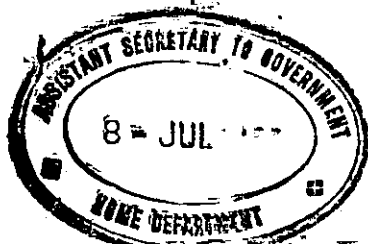
Vakil Advocate

against

The Official Receiver of South Kanara
and another. Defendants

To

2nd Defendant State of Madras. Notice may be served
upon the Secretary to the State of Madras, Home
Department Secretariat, MADRAS.



WHEREAS the Plaintiff has instituted a suit against you
or the reliefs claimed in the plaint, copy of which is enclosed herein,
you are hereby summoned to appear in this Court in person or by a
pleader duly instructed, and able to answer all material questions
relating to the suit, or who shall be accompanied by some person able
to answer all such questions, on the 15th day of July
1953, at 11 o'clock in the forenoon, to answer the claim; and as

NOTICE:—(1) Should you apprehend your
witnesses will not attend of their own accord,
you can have a summons from this Court to
compel the attendance of any witness, and the
production of any document that you have a
right to call upon the witness to produce, on
applying to the Court and or depositing the
necessary expenses.

(2) If you admit the claim, you should
pay the money into Court together with the
costs of the suit, to avoid execution of the
decree, which may be against your person or
property, or both.

the day fixed for your appearance is appointed for the
final disposal of the suit, you must be prepared
settlement of Issues you are directed to produce on that
day all the ^{witnesses upon whose evidence} documents upon which you intend to rely in
support of your defence.

Take notice that, in default of your appearance on
the day before-mentioned, the suit will be heard and
determined in your absence.

[Also take notice that in default of your filing an address for service
before the day mentioned you are liable to have your defence struck out.]

GIVEN under my hand and the seal of the Court, this 25th day
of June 1953.

(By Order)

1111006

87.53

Transm

on 10/7/53

M. Venkata
Vakil Advocate for Plaintiff

M. Venkata
Central Nazim

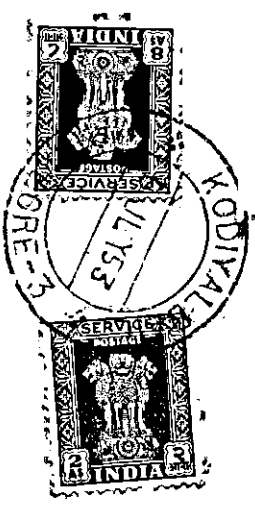
POSTAGE 10¢
KODIYALBAIL

R.S. H. H. 2.5.5

To The Secretary,
The State of Madras
The Home Department

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Sembomai
Madras

Central Works
Mangalore 3



21

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA.

S.C.No. 55 /1953.

Between 1-

Konkani Nataka Sabha, repre-

sented by the President

(1) Rev. Fr. Philip Neri
O. F. M. Cap.

(2) Mr. V. P. M. Pinto Secretary.

(3) Joseph M. D' Souza Treasurer

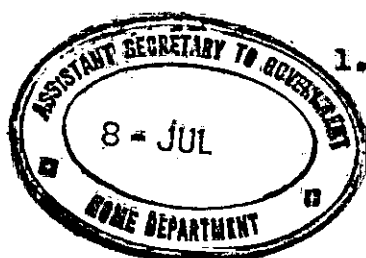
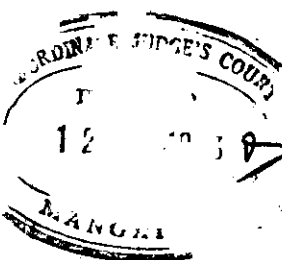
Plaintiff.

and

1. The Official Receiver of
South Kanara representing
the Estate of M. K. Krishnan
Insolvent in I.P. 1/52 of
Sub. Court, S.K.

Defendants.

2. State of Madras.



Police Officer
M. D. 83)
101001

PLAINT UNDER SECTION 26 ORDER VII RULES 1 AND 2

C. P. C:-

The Plaintiff abovenamed begs to state as follows :-

1. That the Plaintiff is a Registered Body registered under the Societies Registration Act and is represented by its President Rev. Fr. Philip Neri O. F. M. Cap, (2) The Secretary Mr. V. P. M. Pinto and (3) the Treasurer Joseph M. D' Souza. All are Roman Catholic Christian, aged about 45, 57 and 27 years respectively, residing at Mangalore Town. That is the address of the Plaintiff for service of all notices and processes as well..

2. That the 1st Defendant is the Official Receiver of South Kanara, the present incumbent being Sri. K. Balakrishna Rao B.A., B.L., Advocate, S/o K. Srinivas Rao, Gowda Saraswath Brahmin, aged about 36 years, Court House, Mangalore Town. The 2nd defendant is the State of Madras and the notice of

Suit upon the 2nd defendant may be served upon the Secretary to the State of Madras, Home Department Secretariat Madras. That is the address for service of all notices and processes on defendants.

3. (a) That the non-residential premises bearing door No. 259-D T.S.No. 91-14 of Mangalore Town belonging to the Plaintiff Society were originally obtained on monthly lease by one M. K. Krishnan on a rental of Rs. 45/- per month as per terms of the Rent Bond dated 31-7-1950 for a period of Eleven Months commencing from 1-8-1950. The aforesaid M. K. Krishnan was holding over the said premises under the same terms and conditions of the lease deed aforesaid. Subsequently the aforesaid M. K. Krishnan in addition to the above upstairs room obtained on lease another ~~room on the~~ adjoining upstairs room T.S. 91-14-259C on a ~~monthly~~ monthly rental of Rs. 40/- payable by the end of every Calendar Month. The said rental was exclusive of the Electric Current charges and the said rooms were fitted with Electric lights and Electric fans at the cost of the Plaintiff landlord.

M (b) That aforesaid M. K. Krishnan paid rental upto 31-1-1952 and subsequently in about February 1952 he absconded from Mangalore and the premises were taken possession of by the Officers of the Police Department of the 2nd defendant along with all the valuable and furniture etc. belonging to aforesaid M. K. Krishnan and the said Officers were occupying the said premises and making use of the Electric lights and fan etc. apparently for the purpose of investigation into the offence alleged to have been committed by aforesaid M. K. Krishnan.

(c) That the creditors of aforesaid M. K. Krishnan filed an Insolvency petition I.P.No. 1/52 on the file of

the Subordinate Judge of South Kanara for adjudging the aforesaid M. K. Krishnan as Insolvent and on 20-3-1952 the 1st defendant was appointed Interim-Receiver of all the properties belonging to the Insolvent including the lease hold interest in the suit properties. Subsequently the aforesaid M. K. Krishnan was adjudged Insolvent and the properties of the Insolvent inclusive of the Lease hold interest in the suit properties became vested in the Official Receiver of South Kanara. The Official Receiver of South Kanara took possession of all the valuable furniture and other articles found in the suit premises belonging to aforesaid M. K. Krishnan and which were locked up in the suit premises and auctioned the same and the 1st defendant has realised over Rs. 1,500/- by sale of the said articles belonging to the insolvent, M. K. Krishnan. Ultimately the Official Receiver of South Kanara handed over vacant possession one of the rooms bearing T.S.No.91-14-259C on 1-10-52 to the Plaintiffs and the other room T.S.91-14-259D was delivered to the Plaintiffs only on 18-1-1953 by handing over the keys of the said premises to the Plaintiffs.

A (d) The Plaintiffs submit that neither the 1st defendant (nor) the 2nd defendant have paid the arrears of rental and Electric current consumption charges shown in the Schedule B. herebelow in respect of the suit premises. The 1st defendant has illegally disclaimed the lease hold interest in the suit premises by a letter dated 15-9-52. The said disclaimer is neither valid (nor) true. The 1st defendant at the time of the said disclaimer ought to have given vacant possession of the said premises. On the other hand all the valuables, articles, furniture and other moveables belonging to the Insolvent which the 1st defendant subsequently auctioned were locked up in the suit premises

and the premises continued to be in the possession of, the 1st defendant till the said articles belonging to the Insolvent were finally auctioned in January 1953 and vacant possession of the suit premises were given to the Plaintiffs only on 12-1-1953. The 1st defendant is therefore liable to pay the arrears of rent and Electric Current charges from the assets of the Insolvent M. K. Krishnan in his hands in the first instance and the arrears of rent were charges legally incurred in the course of the administration of Estate of the Insolvent and ^{under the} are primarily liable to pay the said amount due to the Plaintiff.

(e) By an order dated 1-4-1953 the Plaintiff has been granted permission in R.I.A. 840/52 in I.P.1/52 on the file of the Subordinate Judge of South Kanara to file this suit against the Official Receiver of South Kanara, regarding the arrears of rent and Electric current charges due and claimed in this suit. The same have remained unpaid inspite of a registered notice dated 8-4-1953 which has been accepted without demur.

(f) The 2nd defendant took possession of the suit premises in about February 1952 and the same remained locked up with the moveables belonging to M. K. Krishnan inside the said premises until vacant possession was delivered over to the Plaintiff by the 1st defendant on 1-10-52 and 12-1-1953 respectively as stated above. In the event this Court finds that the disclaimer of the suit premises pleaded by the 1st defendant is true and valid then the Plaintiff is entitled to get a decree for damages for use and occupation ~~of~~ the said premises from 1-2-52 upto 12-1-53 and also for the current consumption charges against the 2nd defendant (or) such of the defendants as the Court finds liable. A notice under Section 80 C. P. C. was duly issued

B.

to the Collector of South Kanara ^{on behalf of 2nd Deft} dated 4-10-1952 and was served upon him on 7-10-1952 demanding the said arrears of rental. But the 2nd defendant has failed to pay the amounts claimed and disclaimed all liability to pay the same. Hence this sui

4. The cause of action for this suit arose on 1-2-1953 and subsequently in Mangalore Town where the suit premises are situated within the Jurisdiction of this Court.

5. The Plaintiff values the reliefs claimed in this suit at Rs. 921-10-0 for purposes of Court fee and Jurisdiction and a Court fee of Rs. 69-12-0 is paid thereon under Section 7 clause 1 and Schedule I article (ii) of the Court Fees Act.

6. The Plaintiff therefore prays for a decree and Judgement directing the defendants (or) such of them as the Court finds liable

(1) To pay the arrears of rent	}	Rs.	911-10-0
and Electric current consum-			
ption charges shown in Schedule			
As herebelow,			
(2) Costs of notices		Rs.	10-0-0
		Total Rs.	<u>921-10-0</u>

(3) Costs of suit with interest and interest on the aggregate from this date till date of realisation.

For such other and further reliefs as this Court deems fit to grant under the circumstances of the case.

Mangalore,)
12-6-1953.)

M. N. Kanwar
Advocate for Plaintiff.

Plaintiff.

We the President, Secretary and Treasurer of the

8

- 6 -

Plaintiff abovenamed do hereby declare that the facts stated above are true to the best of our knowledge.

Mangalore,)
12-6-1953.)

Plaintiff.

Schedule A Amounts.

- | | |
|--|----------------------------|
| (1) The rent of the premises T.S.No.91-14-)
259C and 259D from 1-2-1952 upto 30-9-52)
at Rs. 85/- per month. | Rs. 680- 0- 0 |
| (2) Electric current charges of both the)
premises from 1-2-52 upto 30-9-52.) | Rs. <u>56-10- 0</u> |
| (3) The rent of the premises T.S.No.91-14-)
259D from 1-10-52 upto 12-1-53 at)
Rs. 45/- per month. | Rs. 150- 0- 0 |
| (4) Electric current consumption charges)
from 1-10-52 upto 12-1-53.) | Rs. <u>25- 0- 0</u> |
| | Total Rs. <u>911-10- 0</u> |

Mangalore,)
12-6-1953.)

M. V. C. Anant
Anant

Plaintiff.

We the President, Secretary and Treasurer of the Plaintiff abovenamed do hereby declare that the facts stated above are true to the best of our knowledge.

Mangalore,)
12-6-1953.)

Plaintiff.

Documents filed under Order VII Rule 14 G.P.O:-

- S
1. 4-10-1952 Copy of Notice sent to Collector of S.K. and to Police Department.
 2. Postal Acknowledgement of Collector of S.K.
 3. Do. of D.S.P. S. K.
 4. Do. of A.D.S.P. Mangalore.
 5. 4-3-1953 Reply from D.S.P. S.K.
 6. C. C. of the Order in R.I.A.840/53 in I.P.1/52.

Mangalore,)
12-6-1953.)

M. V. N. N.
Advocate for Plaintiff.

(C. No. 141096/53)

Issue in Section

8/8
11/7/53

Home (Cts.III) Dept.

Express Memo.No. 141096/53-2 dated: 11.7.53

Suit
Suits - S.C. 55/53 on the file
of the Sub Judge, South Kanara -
State of Madras - Defence -

(Summons)
A copy of the Suit Notice

Suit
in S.C. No. 55/53 on the file of the
Sub Judge, South Kanara served on the
Government is forwarded to the Collr
of South Kanara.

h/cf
instruct the Govt Pleader
South Kanara, to enter
appearance on behalf of

2/ He is requested to [arrange
for the representation of] the State
of Madras, the second (defendant)
in the suit mentioned above and [to
instruct the Government Pleader,
South Kanara] to get an adjournment
of the case for a fortnight. He is
also requested to report to Govt. ^{immediately} the
full details ^{of the case} through the I.G. of Police
for sanction ^{of} the defence of the
State of Madras.

To
The Collector of S. Kanara. (with encl)
Copy to I.G. of Police, Madras.
(with enclosures)

1.1.9cf

1.1.9cf

1.1.9cf

10/7/53
3 It is assumed that the St
Carl Kaidax ^{would have} arranged
for the defence of the official
Receiver, the first defendant

10/7/53

(Cno 141096 Ch II/53)

Done in Section

21/7/53

Home Dept.

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Express Memo. No 141096 Ch II/53 dated 21-7-53

Suits - S.C. Suit 55/53 on the file of the
Sub Judge, South Kanara - State of Madras
- Defence.

file of

Ref: ^{quipped} ~~Govt~~ Memo No 141096 Ch II/53 ^(Home) d. 11-7-53

The Collector of South Kanara
is requested to state whether the report
called for in the memo cited has
since been sent to the S. G. of Police
for submission to Govt.

To R.R. Dept
21/7/53

Und

22/7/53

21/7/53

Thru Collector of South Kanara
copy to the S. G. of Police.

21/7/53

106

21.7.53

Thru P.W. III

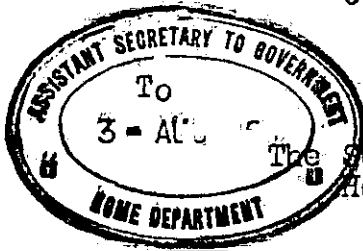
21/7/53

Ref. A3. 16974/53

15
S. Kanara Collector's office,
Mangalore dated 28.7.1953

From

Sri A. Mahalingam Chettiar, B.A.,
Collector of South Kanara,
Mangalore.



The Secretary to Government,
Home Department,
Fort St. George,
MADRAS.

Sir,

SUITS: S.C. suit 55/53 on the file of the Sub Judge
South Kanara - State of Madras - Defence - Interim report
submitted-

Ref: 1. Govt. Memo. No 141096/Cts. III/53.2 Home dated 11.7.53
do do do dated 21.7.53.

15702
159028
11/53
Ref TU

The suit in question relates to the Police Department
and the Dt. Superintendent of Police South Kanara has been asked to
send up a detailed report regarding the facts of the case. His
report has not yet been received by me and I have reminded him once
again. The final report will be submitted as soon as the Dt. Superin-
tendent's ^{Police's} report is received by me. The Government Pleader
South Kanara who has been instructed to enter appearance on behalf
of the state of Madras, reports that the suit stands posted to 5.8.53
for filing the written statement. As the written statement can be
filed in the court only after approval by the Government, he will
be requested to obtain a sufficiently long adjournment of the case.

15714 upon
21823 upon

2/- A copy of the suit notice under Sec. 80 C.P. Code,
received by me from the Plaintiff earlier, and a copy of the report
Rc. No. 19621/C/52 dated 22.10.52 received from the District
Superintendent of Police South Kanara in that connection, are enclosed
for favour of information of the Government.

Yours faithfully

For Collector.
For Collector. - 27.53
Copy with the copy of the enclosures forwarded to the Inspector
General of Police, Madras.

mv 22.7.

KF
30.7

M. Venkatraya Kamath - B.A., B.L.
Advocate,
No. 468/1952

Hampawatta
17 Bangalore
Date 4.10.52

To

The Collector of South Kanara,
Mangalore.

Sir,

SUB: NOTICE UNDER SECTION 80 Cr.P.C.

I have been instructed by the President, Secretary and Treasurer of the Konkani Natak Sabha, Balmatta, Mangalore to issue this notice to you:-

1. That my clients leased out the upstairs portion rooms ^{being} Door No. 259-d of 14th ward and door No. 259-c of 14th ward to Mr. M.K. Krishnan, the Proprietor ~~resp-~~ of Kerala Chit Fund on monthly rental of Rs. 45/- and Rs. 40/- respectively. The aforesaid premises are fitted with Electric lights and Fans belonging to my clients.
2. That aforesaid Mr. M.K. Krishnan has paid rent of the premises till January 1952 and he has not paid rent since 1.2.1952. That it about February 1952, aforesaid M.K. Krishnan absconded from Mangalore and the Police officials of the Crime Branch Mangalore have taken possession of the said premises in about February 1952 and since then they have been occupying the said premises formerly occupied by Mr. M.K. Krishnan. And when my clients requested them to vacate, they have refused to do stating that they require the premises for purposes of investigation into some offences committed by Sri M.K. Krishnan.
3. My clients are entitled to receive damages for use and occupation of the said premises from the said police department of the State of Madras at the rate of Rs. 85/- per month for the last 8 months upto 30.9.1952 which comes to Rs. 680/- and also the electric current consumption charges of the said premises aggregating to Rs. 56-10-0 upto 30.9.1952. The said amount has remained unpaid inspite of repeated demands made by my clients with the Police Department officials.

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4. This is to intimate to you on behalf of the State of Madras that you should pay the said sum of Rs. Rs.736.10.0 being the damages for use and occupation of the premises T.S.No.259-C and 259-D of 14th Ward by the Police Department within 2 months next after the receipt of this notice, failing which my clients will be constrained to institute the necessary suit against the State of Madras for recovery of the said amount with interest and costs, you are also called upon to quit and surrender the premises by 31.10.1952 failing which the suit for possession and future damages from 1.10.1952 will be filed within 2 months next after the receipt of this notice, by you.

(True copy)

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Copy of Rc.No.19621/C/52 dated 22-10-52 from the
Dt.Superintendent of Police, South Kanara, to the
Collector of South Kanara.

Sub: Suit Notice; House rent-non payment Mangalore Town-14th
Ward Door No.259-D and 259-c. notice on behalf of the President
Secretary and Treasurer of the Konkani Natak Sabha, Balmatta.

REF: Your letter Ref.A3. 25019/52 dated 9.10.52 with copy of the
Lawyer's notice.

The two rooms referred to were rented out by the Sabha
to Sri M.K.Krishnan Proprietor of the New Kerala Daily Auction
Chit Fund, Mangalore during September 1950 and from then till
27.2.52 the said Krishnan was in continuous occupation of the
rooms and was using them for transacting business of his chit
funds. A regular office establishment with several clerks and agents
was being run and numerous registers and account books
maintained.

2. On 27.2.52 Sri M.K.Krishnan absconded from Mangalore and the office premises (the said two rooms) were found locked that day. There was a notice that the office would be re-opened on 3.3.52 for continuing the auctions. But the office never re-opened even on 3.3.52 and some of the members who suspected fraud laid a complaint at Mangalore south Police station on 3.3.52 Cr.No.59/52 under section 420 I.P.C. was registered at this station and immediate investigation taken up by the S.I. On 4.3.52 the S.I. obtained the keys of the locks put up at the office from one A.J.D'Souza who had been the head clerk of the office under Sri M.K.Krishnan. In the presence of the witnesses the premises were opened by the S.I and an inventory of all the articles found inside the rooms was prepared. The list included a large number of items of furniture several volumes of account books, ^{ledgers} ledgers and other connected records relating to the office.

3. The inventory so prepared was submitted to the court of the S.D.M.Mangalore on 18.3.52. The S.I.had asked for the orders of the Court regarding the custody of the items included in the inventory. This report was acknowledged by the S.D.M. the same day but no orders were subsequently issued.

4. pending further investigation the two rooms were locked

locked and sealed in the presence of witnesses. Detailed investigation into this case was subsequently taken up by a special duty S.I. on 4.7.52 and the accused Sri M.K.Krishnan was charged under Sec.409 I.P.C. on 18.9.52. The accused is still absconding and the case is pending trial.

5) The Police were never in actual occupation of these two rooms at any time. They have had nothing to do with the owners of the premises. At the time the Police took charge of the properties in these rooms, which evidently had a bearing on the case under investigation, these premises were not under the occupation of the owners. The accused Sri M.K.Krishnan was then the lessee and the keys had also been obtained from one of his agents only. There is nothing to indicate the arrears of rent the owners had taken out any civil proceedings to evict the said Sri M.K.Krishnan or to recover the rent due to them. The Special Duty S.I. was once approached by the President of the Sabha with a request for removing all the articles of furniture and other records from these two rooms to elsewhere so that the rooms could be let out. The Special Duty S.I. could not do anything in the matter because the property was subject to orders from the court. There was never the question of the Police refusing to vacate the rooms because they were never in occupation of the same. This is clearly a case where a lessee has absconded leaving his own private property inside the premises leased out to him and if the lessors desire to take possession of the premises it is up to them to do so by initiating civil proceedings. It is not for the Police to remove the articles therein to enable the lessors to take possession of the premises unless ordered by a competent court.

6) It has also to be mentioned in this connection that the said Sri M.K.Krishnan has been adjudged an insolvent by the Sub Judge of Mangalore in I.P.1/52 of his court and an Official Receiver has been appointed to take charge

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of the assets of the said Sri M.K.Krishnan. This Receiver has also taken an inventory of the property found in these two rooms.

7) In these circumstances the Police cannot be held liable for any loss or damage suffered by the owners of the premises.

8) A draft reply to the lawyer's notice referred to will be prepared in consultation with consultation with the Government Pleader and necessary action will be taken.

(True copy)

Very Urgent.
Ref.A3. 16974/53

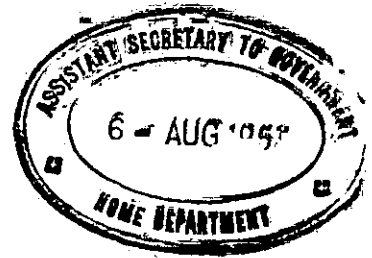
S.Kanara Collector's office,
Mangalore dated 4--8--1953.

From

Sri A.Mahalingam Chettiar, B.A.,
Collector of South Kanara,
Mangalore.

To

The Secretary to Government,
Home Department,
Fort St. George,
Madras.



Sir,

SUITS:S.C.Suit 55/53 - on the file of the sub Judge -
South Kanara - State of Madras - Defence - Report submitted

Ref:1.Govt.Memo.No. 141096/Cts.III/53.2 dated 21.7.1953.
2. My Report Ref.A3. 16974/53.dated 28.7.1953

Kind attention is invited to my report second cited.
The District Superintendent of Police who was asked to report the
full details of the case, now states that the details of the case
are contained in his report R.C.No 19621/C/52, dated 22.10.52 sent in
connection with the suit notice issued by the Plaintiff. A copy
of the suit notice and a copy of the Dt.Superintendent of Police's
report have been submitted by me with my report second cited.

The Government Pleader South Kanara has been requested to obtain
an adjournment of the case on 5.8.53 and also to prepare a draft
written statement to be filed on behalf of the State, expediti-
ously. I shall submit a further report to the ^{Government} Court through the
Inspector General of Police after the draft written statement is
received from the Government Pleader, Mangalore.

Mine faithfully

Handwritten signature

For Collector. 4/8/53

Copy to the Inspector General of Police, Madras.
Copy to the Dt.Superintendent of Police, S.K.
mv 4.8.

Handwritten initials

REGISTERED POST.
Ref. A3.16974-52.

28
S. Kanara Collector's Office,
Mangalore dated 18.8.52.

From:

To

Sri A. Mahalingam Chettiar, B.A.
Collector of South Kanara.

The Secretary to Government
Home Department
Fort St. George Madras
Through
The Inspector General of
Police
Madras.

Sir,

SUITS: South Kanara district--S.O. suit--55/52 on the file
of the Sub Judge South Kanara--State of Madras--Defence of--Report-
Submitted.

Ref: 1. Government Memo No. 14096-Courts MD/52-2 Home Depart-
ment dated 11.7.52.

2. -do- dated 21.7.1952
P 15 above 3. My report Ref. A3.16974-52 dated 26.7.52.
826 " 4. -do- dated 28.8.52.

Kind attention is invited to my report Ref. A3.16974-52 dated
~~22.7.52~~ 22.7.52 enclosing a copy of the report P.C.No. 19621-C-52 dated 28
12.52 of the Dt. Superintendent of Police South Kanara which
contains the full details of the case.

2. The draft written statement prepared by the Government
Pleader South Kanara to be filed on behalf of the state of
(the second defendant) and a copy of the letter Ref. No. 711
dated 7.8.52 from the Government Pleader South Kanara are
closed. In para 4 of the draft written statement it has been
stated that the second defendant should be deemed to have
in possession of the articles on behalf of the first defendant
and that if at all, the first defendant will be liable to
the rent, if rent is due to the plaintiffs on behalf of
As it was not clear as to how the Collector would be deemed
have been in possession of the articles taken possession of
official Receiver appointed by the Civil court and why such an
avowment need be made, the matter was referred to the Government
Pleader again. A copy of his further opinion on these points
dated 12.8.52 is enclosed. The suit stands posted to 27.8.52.
I request that the defence of the suit may be sanctioned and the
draft written statement approved and sent back to me to enable
to file it into court on 27.8.52.

3. The following documents relating to the case are also en-
closed for reference and return.

(X)

(1) file bearing C.No. 19621-C/52 of the Dt. Superintendent of

Police S. Kanara pages 1 to 56.

(2) File containing copies of the reports etc maintained

(2) by the S.I of police Sri F.M.D'Souza pages 1-1/2

(3) Collector's D.Dis.25019-50 containing 12 pages. - (E)

4. The particulars called for in para 3 of the Government Memo first cited will be submitted separately.



Yours faithfully,

H. Narayana
4/6 For Collector. *Thes* 53

Enclosures:

IC/13.8.53. *2/14*

Rc.No. 619/Bud/53

108650

F o r w a r d e d.

25/8
Not to
Office of the
Insp.-Genl. of Police,
P.B.No.601, Madras -4,
Dated the 18th Aug. 53.

To

for Insp.-Genl. of Police.
19/8

✓ The Secretary to the Govt. of Madras,
Home Department.

18/8
L.

of the rooms had ever been occupied by the Police at any time nor is it true to say that the investigating staff had at any time used the electricity for the lighting or by using the fan.

(d) This Defendant further learns from the Police report that electricity has been consumed by the office of the New Kerala Daily Auction Chit Fund for the month of February, 1952 as the office was closed on 27-2-1953. Therefore, after the last reading of the metre by the Electric Company ^{the beginning of January 1952, the next reading was done only} in about, on the evening of 4-10-1952. So, it is very likely that the Electric charges of Rs.46 56-10-0 might refer to the consumption of electricity done by the Chit Fund Office itself.

(e) It is also submitted by this Defendant that for the sake of convenience and facility, the Sub-Inspector in charge had shifted all the furnitures and records from the second room to the first room soon after he took up investigation of the case and that within about a week thereafter, he had found ~~the owners having taken possession of the room and were~~ effecting repairs and alterations therein. It is submitted a couple of days after Sri. P. N. D'Souza S.I of Police took charge of the case, Rev. Father Philip Veri is said to have approached the S.I. with a request that the "samans" and furniture from the rooms should be removed so that they may be rented out to others. At that time, the S.I had made it clear to him that he was not responsible for the keeping of the "Samans" there, as he had nothing to do with the furniture which was not necessary for his case and he had also made it clear to the President of the Hataka Sabha that the Police were neither in occupation of the rooms nor were they in need of the said rooms. The S.I seems to have informed the President that he could take proper legal steps for the eviction of Sri. Krishnan from the premises and for the removal of the "samans" found therein.

(f) However, the President of the Hataka Sabha got remove the sign board of the New Kerala Daily Auction Chit Fund and the same was kept inside the first room and even a "TO LET" board was put up by Rev. Father Veri on the northern wall of the

357
building adjoining this room. The S.I of Police had also seen Rev. Father Leri showing these two rooms to some officer of the Highways Department for locating one of their offices.

4. This Defendant admits the facts mentioned in the Para 3(a) of the plaint. As such, the First Defendant is in possession of all the assets of the said Insolvent who had taken up the premises for the purpose of running his business. It is not correct to say that this Defendant took possession of the said premises in about February, 1952 or at any time before or thereafter and that the same remained locked up with the movables belonging to Krishnan inside the said premises. In fact, these movables were kept and safeguarded by the police on behalf of the Lessee. But since these properties passed over to the custody of the First Defendant the Second Defendant should be deemed to have been in interim possession of the articles on behalf of the First Defendant, and if at all, the First Defendant will be liable to pay the rent if rent is due to the Plaintiffs on behalf of M.M. Krishnan.

5. That the notice given by the Plaintiff a had been properly applied to.

This Defendant therefore, submits that the suit against him may be dismissed with costs [and if arrears are due, the First Defendant may be directed to pay the arrears to the Plaintiff out of the assets of the aforesaid Krishnan.]

MANGALOPF.

Dated /8/53. GOVT. PLADTR.

2nd DEFENDANT.

I, the Second Defendant, the Collector of South Kanara, Mangalore, do hereby declare that the facts stated above are true to the best of knowledge.

M A N G A L O P F E

2. /8/1953.

2 ND DEFENDANT.

(True Copy)

Manam
1/6 For Collector 1953

IN THE COURT OF THE SUB JUDGE OF SOUTH KANARA.

S.C. No.55/53.

Konkanī Nataka Sabha, represented.)
by the President and others.) Plaintiff.

a n d

1. The Official Receiver of S.K.,)
representing the Estate of M.K.)
Krishnan-Insolvent in I.P.No. 1/52) Defendants.
on the file of the Sub Court.)
2. The State of Madras, represented)
by the Collector of S.K., Mangalore.)

--

WRITTEN STATEMENT FILED BY THE SECOND DEFENDANT UNDER
VIII RULE I OF THE CIVIL PROCEDURE CODE.

The Second Defendant begs to state as follows:-

1. That this suit is not maintainable in law or on facts against this Defendant and he has been impleaded as an ~~un~~ party in the Suit.
2. That this Defendant is not aware of the fact mentioned Para 3(a) of the Plaint. However, it is learnt by the Second Defendant from the report of the S.I. of Police on Special ~~ut~~ for the investigation of a criminal case against M.K. Krishnan, who has been adjudged an Insolvent in I.P.No.1/52 on the file of this Court that the said M.K. Krishnan had taken on lease the premises mentioned in Para 3(a) of the plaint for the purpose of running his business known as the "New Kerala Daily Auction Chit Fund."
3. This Defendant is not aware of the (fact as to till that period) rents have been paid for the premises occupied by the New Kerala Daily Auction Chit Fund. However, the aforesaid M.K. Krishnan had stopped his business of running the Chit Fund somewhere in about the end of February, 1952, and after closing the premises belonging to the Plaintiff absconded from Mangalore as at about that time a complaint was received by the Police against him under Section 409 and 420 I.P.C by some of the member of the said Chit Fund. But it is emphatically denied that ~~the~~ premises occupied by the said Krishnan were

Articles of the Police Department along with all the valuables and furniture etc. found in the said premises. It is also denied that the police officers occupied the said premises and were making use of the electric lights and fan, etc. for the purpose of investigation into the above-said offence or for any other purpose. The correct facts as learnt by this Defendant are as

~~The above-said M.K. Krishnan was the proprietor of the Kerala Daily Auction-Shift Fund and he was collecting mbrays from the members and was running chits of different denominations. On 22-5-52 a complaint disclosing an offence under Section 409 and P.F.C. grains, the said Krishnan was received at Manalor Police Station and the same was registered as Crime No. 1070 of that Station.~~

(a) That on the following day, the Sub Inspector of Police, Manalor South, went to the premises which was locked and obtained the key of the office from one A.J.D'Souza who was said to be the Head-Clerk of the office and a trial opening both the rooms the S.I. in the presence of respectable witnesses, prepared an inventory of all the articles found in the premises occupied by M.K. Krishnan, including account books and records pertaining to his business. But none of these articles was seized and taken possession of by the Police as at that stage it was not possible to ascertain as to which of them would be necessary for purposes of investigation. Nevertheless as required by law an information to the Sub Divisional I Class Magistrate was sent about this procedure adopted by the Police.

(c) After preliminary investigation till about July, Sri. P.M.D' Souza, S.I of Police, was put in charge of further investigation into this matter. He found that both the rooms and the articles found therein remained under lock and key in the same condition ~~as before~~ and had been so left by M.K. Krishnan. This S.I and his

~~one premises and to open the rooms and~~

~~which is not done to say that any one~~

4/8

Copy of Letter No. Ref.No.711/53 dated 7-8-1953 of the Govern-
ment Pleader, South Kanara to the Collector of South Kanara.

--

Sub:- SUITS - S.C. Suit 55/53 on the file of the Sub Judge
South Kanara Suit filed by Konkani Nataka Sabha Adjournment-
Request - Written statement forwarded.

Ref:- Your A3. 16974/53 d-4-8-1953. | P-

As required by you I have prepared a written statement (to
be sent to the Board of Revenue for approval. I have set out
certain facts in the statement which could be seen from the
report of the Sub Inspector of Police, Sri. P.M.D' Souza sent
by him to the D.S.P. on or about 30-7-1953. The said S.I has
placed in my hands a copy of the said report, which I do not find
in the records sent to me by the District Superintendent of Police,
South Kanara, Mangalore. I am herewith sending all the records,
viz., the records received from the office of the D.S.P. as well
as the copies of reports given to me by the S.I. of Police,
Sri. P.M.D'Souza for your perusal and necessary action.

The suit stands posted to 27-8-1953. Please see that the
statement is sent to me before that date after getting the
necessary approval from the Revenue Board.

/True copy/

M. N. N. N. N.
5/6 For Collector Th 8-5-53

36

RETURNED WITH THE NECESSARY CLARIFICATION.

The Police had taken possession of the properties much earlier than the Official Receiver, who took possession of the properties much later. Therefore some one must be in possession of these articles since the investigation had already begun and the Police had prepared the Inventory etc., Therefore there is no harm in stating or admitting that fact. However, I have now added the word "Interim" which will make matters clear. If however the Revenue Board is of opinion that admission is not necessary it can be deleted. In my opinion there is absolutely no harm in admitting that fact which in reality is the truth also unless we take the stand that the Police had absolutely nothing to do with the articles but that they were concerned only with the account books. This stand may not be absolutely correct as an inventory had been prepared by the Police. However if a change is found to be necessary that para can be redrafted by changing the word "second defendant into" first defendant.

The file is returned herewith. Please acknowledge the receipt of the same.

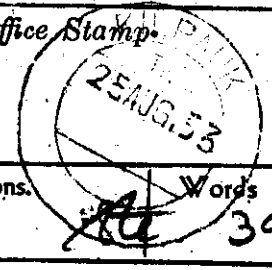
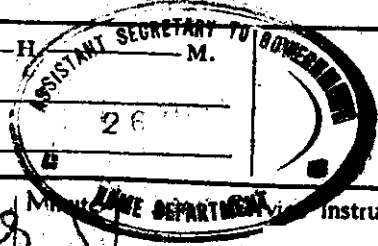
(True copy)



INDIAN POSTS AND TELEGRAPHS DEPARTMENT



Class } X 9305 M 26 TK 170214. 43
Prefix } Code No. C
Recd. from m Sent at H M Office Stamp
By TS To 26
By Handed in at (Office of Origin) Mangalore Date 25-7-53 Hour Mins 39
Instructions Words



TO Madras Home Msk =
Reference Govt memo 14096 Courts/11/53
dated eleventh July (aaa) My [52]
report a. 3 16974.53 dated thirteenth
(aaa) sc 55/53 - subjudge south
Kanara posted to the twenty-seventh
(aaa) Written statement approved

N. B.-(1) The name of the Sender, if telegraphed, should be written after, but separated from the text
(2) Any complaint in respect of this Telegram may be accompanied by the delivered copy
Victoria Press, Vellore-Ptg/C Bks. 95,900 D 24-7-52



INDIAN POSTS AND



TELEGRAPHS DEPARTMENT

Class }
Prefix } Code _____ No. **43** **G.**

Recd. from _____ Sent at _____ M.
By _____ To _____
By _____

Handed in at (Office of Origin) _____ Date. _____ Hour. _____ Minute. _____ Service Instructions _____ Words _____

TO _____ Recd here at **2** H. **4** M.

requested =

Collector =

N. B:-(1) The name of the Sender, if telegraphed, should be written after, but separated from the text.

(2) Any complaint in respect of this Telegram may be accompanied by the delivered copy

Victoria Press, Vellore-Ptg/C Bks. 95,000 D 24-7-52

[C. NO. 141696. Vol. III/53]

Precedent at
P. 12 C.F. & F.

Issued
26/8/53

1. Office
at once
2. 26/8/53
(TO)

Home dep

Express Telegram

42

Collector

Mangalore.

PR 38-40CF

Court

C. NO. 141696. Vol. III/53 AAD. your ~~telegram~~
~~letter A.S. 16774-53 dated 13.8.53~~. telegram
dated 25.8.53. regarding sanction of
defence in S.C. 55/53 [of] Subjudge's
Sark Kanara AAA (Pheak) obtain
adjournment for two weeks (for) filing
written statement.

26/8/53

W
26.8.53

W
26/8/53

Madras

P. 5 go.

P.C. Dhd
26/8/53

Present
at (N)

HOME DEPARTMENT

G.O.Ms.No. 2809

dated 3.9.53

Income
LW

29.33
1.0.12

P.1 C.F

✓ F 15 C F

x P.26 C.F

⊕ PP 28-29 C F

P.29 C.F.

SUITS - S.C.No. 55/53 on the file of the Sub Judge, South Kanara - Suit filed by the office bearers of Konkani Nataka Sabha, South Kanara, against the Govt. for recovery of arrears of rent in respect of the buildings taken possession of by Police officers - Defence - Sanctioned.

LW

Read: Suit Notice dated 25-6-1953.

From the Collector of South Kanara Ref.A3.16974/53 dated 28-7-53, 4-8-53 and 13-8-53.

From the I.G. of Police, R.C.No. 619/Bud/53 dated 18/19-8-53.

ORDER:

The Government of Madras sanction the defence of the State of Madras (second defendant) in S.C. ~~Suit~~ No 55/53 on the file of the ~~Court~~ of Sub-Judge, South Kanara district.

2. A copy of the draft written statement as approved by the Govt. is enclosed.

3. The Collector of South Kanara is requested to instruct the Govt. Pleader, South Kanara to defend the Govt. in the said Suit.

4. The Collector of South Kanara is requested to report the result of the suit in due course.

PP.32-35 C.F

Lpd (w/12) 1624

3/9/53

C.B. Guly
made.

1.12.53
3/9/53

To
The Collector of South Kanara.
(with a copy of pp.32-35
c.f. and (E), (Z) and (Y)
in original)

The Govt. Pleader, South Kanara,
thro' the Collector of
South Kanara (with a copy of PP.32-35 C.F.)

Copy to the Regr., H.C., Madras.

Copy to the Legal Dept.

Copy to Home (Cts.III) Dept.

Copy to the A.G., Madras, thro'
the Finance Dept.

R
29/8/53

hf
29.8.53

45

IN THE COURT OF THE SUB JUDGE OF SOUTH KANARA

S.C.No. 55/53.

Konkani Nataka Sabha, represented)
by the President and others.) ... Plaintiff

and

1. The Official Receiver of S.K.)
representing the Estate of M.K.)
Krishnan-Insolvent in I.P.No.1/52)
on the file of the Sub Court.).. Defendants.
2. The State of Madras, represented)
by the Collector of S.K., Mangalore.)

WRITTEN STATEMENT FILED BY THE SECOND DEFENDANT
UNDER ORDER VIII RULE 1 OF THE CIVIL PROCEDURE CODE.

The Second Defendant begs to state as follows:-

1. That this suit is not maintainable in law or on facts against this Defendant and he has been impleaded as an unnecessary party in the Suit.

2. That this Defendant is not aware of the fact mentioned in Para 3 (a) of the Plaint. However, it is learnt by the Second Defendant from the report of the S.I. of Police on Special Duty for the investigation of a criminal case against M.K. Krishnan, who has been adjudged an insolvent in I.P.No.1/52 on the file of this Court that the said M.K.Krishnan had taken on lease the premises mentioned in Para 3 (a) of the plaint for the purpose of running his business known as the "New Kerala Daily Auction Chit Fund".

3. This Defendant is not aware of the period upto which rents have been paid for the premises occupied by the New Kerala Daily Auction Chit Fund. However, the aforesaid M.K.Krishnan had stopped his business of running the Chit Fund somewhere in the end of February, 1952, and after closing the premises belonging to the Plaintiffs absconded from Mangalore as at ~~xxxxxx~~ about that time a complaint was received by the Police against him under section 409 and 420 I.P.C. by some member of the said Chit Fund. But it is emphatically denied that the premises occupied by the said Krishnan were taken possession of by the Officers of the Police Department along with all the valuables and furniture etc. found in the said premises. It is also denied that the police officers occupied the said premises and were making use of the electric lights and fan, etc. for the purpose of investigation into the above-said offence or for any other purpose. The correct facts as learnt by this Defendant are as follows:-

(a) The above-said M.K.Krishnan was the proprietor of the New Kerala Daily Auction Chit Fund and he was collecting moneys from the members and was running chits of different denominations. On 3-3-52, a complaint disclosing an offence under section 409 and 420 I.P.C. against the said Krishnan was received at Mangalore South Police Station and the same was registered as Crime No. 59/52 of that Station.

(b) That on the following day, the Sub-Inspector of Police, Mangalore South, went to the premises which was locked and obtained the keys of the office from one A.J.D'Souza who was said to be the Head-Clerk of the office and after opening

both the rooms the S.I. in the presence of respectable witnesses, prepared an inventory of all the articles found in the premises occupied by M.K. Krishnan, including account books and records pertaining to his business. But none of these articles was seized and taken possession of by the Police as at that stage it was not possible to ascertain as to which of them would be necessary for purposes of investigation. Nevertheless an intimation to the Sub Divisional I Class Magistrate was sent about this procedure adopted by the Police.

(c) After preliminary investigation till about July, Sri P.M.D' Souza, S.I. of Police, was put in charge of further investigation into this matter. He found both the rooms and the articles found therein remained under lock and key in the same condition in which they had been so left by M.K. Krishnan. This S.I. and his staff had to often visit the premises and to open the rooms and to look into certain records, but it is not true to say that any one of the rooms had ever been occupied by the Police at any time nor is it true to say that the investigating staff had at any time used the electricity for the lighting or by using the fan.

(d) This Defendant further learns from the Police report that electricity has been consumed by the office of the New Kerala Daily Auction Chit Fund for the month of February, 1952 as the office was closed on 27-2-1953. Therefore, after the last reading of the metre by the Electric Company in about the beginning of January 1952, the next reading was done only on the evening of 4-10-1952. So, it is very likely that the electric charges of Rs. 56-10-0 might refer to the consumption of electricity done by the Chit Fund Office itself.

(e) It is also submitted by this Defendant that for the sake of convenience and facility, the Sub-Inspector in charge had shifted all the furnitures and records from the second room to the first room soon after he took up investigation of the case and that within about a week thereafter, he found that the owners had taken possession of the room and were effecting repairs and alterations therein. It is submitted that a couple of days after Sri P.M. D'Souza, S.I. of Police took charge of the case, Rev. Father Philip Neri is said to have approached the S.I. with a request that the "samans" and furniture from the rooms should be removed so that they may be rented out to others. At that time, the S.I. had made it clear to him that he was not responsible for the keeping of the "Samans" there, as he had nothing to do with the furniture which was not necessary for his case and he had also made it clear to the President of the Nataka Sabha that the Police were neither in occupation of the rooms nor were they in need of the said rooms. The S.I. seems to have informed the President that he could take proper legal steps for the eviction of Sri Krishnan from the premises and for the removal of the "samans" found therein.

(f) However, the President of the Nataka Sabha got removed the sign board of the New Kerala Daily Auction Chit Fund and the same was kept inside the first room and even a "TO LET" board was put up by Rev. Father Neri on the northern wall of the building adjoining this room. The S.I. of Police had also seen Rev. Father Neri showing these two rooms to some officer of the Highways Department for locating one of their offices.

4. This Defendant admits the facts mentioned in the Para 3 (c) of the plaint. As such, the First Defendant is in possession of all the assets of the said Insolvent who had taken up the premises for the purpose of running his business. It is not correct to say that this Defendant took possession of the said premises in about February, 1952 or at any time before or

49

3

thereafter and that the same remained locked up with the movables belonging to Krishnan inside the said premises. In fact, these moveables were kept and safeguarded by the police on behalf of the Lessee. But since these properties passed over to the custody of the First Defendant, the Second Defendant should be deemed to have been in interim possession of the articles on behalf of the First Defendant, and if at all, the First Defendant will be liable to pay the rent if rent is due to the Plaintiffs on behalf of M.K. Krishnan.

5. That the notice given by the Plaintiff had been properly replied to.

This Defendant therefore, submits that the suit against him may be dismissed with costs.

MANGALORE,

Dated:

-9-53 GOVT. PLEADER

2nd DEFENDANT

I, the Second Defendant, the Collector of South Kanara, Mangalore do hereby declare that the facts stated above are true to the best of knowledge.

Mangalore,

Dated -9-1953.

2ND DEFENDANT

/True copy/

Superintendent

Ref.A3.16974/53

S.Kanara Collector's Office,
Mangalore dated 16.9.53.

From

Sri A. Mahalingam Chettiar I.A.S.,
Collector of South Kanara.



To

The Secretary to Government,
Home Department, Fort St. George,
Madras.

Sir,

SUITS - S.C.No.55/53 on the file of the Sub Judge
South Kanara - suit filed by the office bearers of
Konkani Nataka Sahba - South Kanara Dt. against the
Government for recovery of arrears of rent in
respect of the buildings taken possession of by
Police officers - defence of the official receiver-
report submitted.

Govt. memo No.14106 Courts III.53-2 Home
Department dt.11.7.53.

With reference to para 3 of the Government memo cited
the following information is furnished.

The official receiver of South Kanara who is the
first defendant in the above suit states that after
obtaining the previous sanction of the Insolvency court,
he has engaged a lawyer to appear for him (the official
receiver) in the suit. He also states that he has already
filed his written statement.

Yours faithfully,

M. Panthavanam
For Collector.

AM/18.9.53

18/9

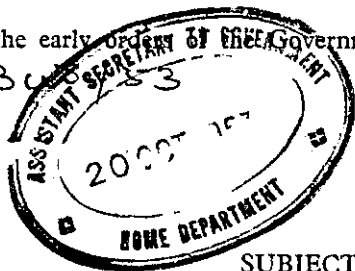
From

SRI J. DEVASAHAYAM, B. A., I. P.
INSPECTOR-GENERAL OF POLICE,
MADRAS-4.

No.

Sir,

I request the early order of the Government on my
R. C. No. 619/13488



SUBJECT

C.O.P.—22-5-53—2000.

To

THE SECRETARY TO THE
GOVERNMENT OF MADRAS,
Home DEPARTMENT.

Dated... 19.10.1953.

Endd — p. 29 cut 9
(B)
, dated 19.8.1953.

P. S. Subramanian
for Inspector-General of Police.

Suits - S. C. Suit 55753 on the file
of the Sub Judge, South Kanara -
State of Madras. Defence. Sanction of

194488
20/10/53

Home dept

With reference to para 3

of the memo on p. 11 of (B)
 please see the report of the
 collr, South Kanara on P. 1. ante.
 In G.O. No. 2809, Home dated 3.9.53
 Govt sanctioned the defence of
 the state of Madras (second
 dependant) in S.C. suit No. 51/53
 on the file of the sub judge,
 South Kanara district. The
 collr of South Kanara has
 also been asked to report
 the result of the suit in
 due course and a C.B. entry
 has been made for the purpose
 against 1-12-53.

With reference to the
 reminder from the S.G. of Police
 on P. 3. ante, a copy of G.O. No.
 2809 Home dated 3.9.53 may
 be sent to him. A draft
 memo is submitted for approval.
 After issue, this may be filed
 with the G.O. at (B)

P 43 1/2 (B)

para 4, p 43 1/2
 (B)
 ind

43 1/2 or (B)

thru. els. III

22/10/53
 nkl

21.10.53.

22.7.53

23.7.53

James
23/10/52

30
26/10

P 3. 48

P 43 48 P. (B)

Memo No. 183090 Pdt II / 52-1

51
Home Dept
dated 26.10.52

Suits - S.E. No. 52/52 on the file of
the Sub Judge, South Kanara - suit
filed by the office bearers of
Kontani Nataka Sabha, South Kanara
dt. against the Govt for recovery
of arrears of rent in respect of
~~the~~ buildings taken possession
of by Police Officers. Defense
Ref :- From the G.O. of Police,
Madras, No. reminder No. Nil. dt 19/10/52

A copy of G.O. No. 2809,
Home dated 3.9.52 in which
the Govt sanctioned the defense
of the State of Madras (second
defendant) in S.E. suit No. 52/52
on the file of the Sub Judge

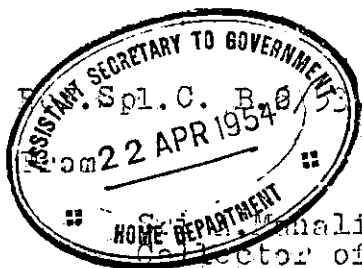
→ 58

sub judge, South Kanara district
is enclosed.

~~21.10.53~~
21.10.53
22.10.53

M
23.10.53

✓ Lnd (401)
28.10.53
To the S. G. of Police
Madras. 4 (with
a copy of the
G.O. on p. 43 of
of (B))



59

S.Kanara Collector's office,
Mangalore dated 14-4-1954.

Sd/- Mahalingam Chettiar, I.A.S.,
Collector of South Kanara.

To

The Secretary to Government,
Home Department, Fort St. George,
Madras.9

Sir

SUITS: S.C.No. 55/53 on the file of the Sub Judge, South Kanara- Suit filed by the office bearers of Konkani Nataka Sabha, South Kanara against the Government for recovery, of arrears of rent in respect of the buildings taken possession of by Police officers-Result -Report submitted-

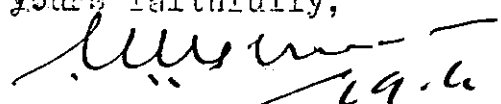
Ref: G.O.Ms.No.2809.Home Dept. dtd 3.9.1953.

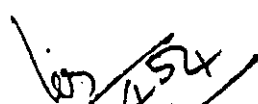
p.d. 56162

4342 (T)

A. The defence of the suit S.C.No.55/53 on the file of the Sub Judge, S.Kanara was sanctioned by the Government in their order cited. The Government Pleader South Kanara who defended the Government in the said suit reports that the suit against the State of Madras has been dismissed with costs and that it was decreed against the 1st defendant, viz: the official Receiver. Copies of the decree and judgement in the suit have not been received by me. These copies will be submitted to Government as soon as they are received in this office.

Yours faithfully,


For Collector.


16454

60
5/16

Home dept

submitted for perusal
of the letter from the collr
of South Kanara on p.i. ante;
the receipt of the copies of
the ^{decrees} ~~decrees~~ and judgment
promised at A' on p.i. ante
may be awaited. (R.D. 20.10.54)

22/10/54

400
24.10.54
14
24/10/54

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61/35
Ref.Spl.C.B.62/53.A3.

S.Kanara Collector's Office,
Mangalore, dated 28.5.54.

From

Sri M. Seetharama Sarvai, B.A.,
Collector of South Kanara

The Secretary to Government,
Home Department, Fort St. George,
M A D R A S-9.

SUITS = S.C.No.55/53 on the file of the Sub Judge
South Kanara = suit filed by the office bearers
of Konkani Nataka Sabha South Kanara against the
Government for recovery of arrears of rent in
respect of buildings taken possession of by Police
Officers - Copies of decree and judgment - submitted.

Ref:-T.G.O.Me.No.2809/Home Department dated 3.9.53.
2.My Ref.Spl.C.B.62/53-A3 dated 14.4.54.

In continuation of my report cited I submit herewith
copies of the decree and judgment in S.C.No.55/53 on the file
of the Sub Judge South Kanara.

Encl: 2.

22/29-5

Yours faithfully

[Signature]

For Collector.

62

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA
PRESENT: Sri T.S. Anavaradham, M.A., B.L.,
Principal Subordinate Judge.
Friday, the 9th day of April 1954.
Small cause No. 55/1953

BETWEEN:-

Konkani Nataka Sabha, represented by the President,
1. Rev. Fr. Philip Meri, O.F.M. Cap.)
2. Mr. V.P. M. Pinto, Secretary.) Plaintiff
3. Joseph M. Souza Treasurer.)

and
1. The official Receiver of South Kanara representing)
the Estate of M.K. Krishnan Insolvent in I.P.1/1952) Defendants.
of Sub Court, S.K. (2) The State of Madras.)

This suit coming on the 2nd day of April 1954, for final hearing before me in the presence of Sri M.V. Kamath, Advocate for Plaintiff of Sri M.A. Kamath, pleader for 1st defendant and of Sri B.G. Das, Government pleader for 2nd defendant and having stood over to this day for consideration, the court delivered the following

J U D G M E N T

Suit for recovery of Rs. 911.10.0

2. The case of the plaintiff, in brief is as follows:-
The suit properties were leased to one M.K. Krishnan, the insolvent in I.P.1/1952 prior to his insolvency. One of the two rooms in suit were leased to him by a deed dated 31/7/1950, for a period of 11 months commencing from 1-8-1950 on a monthly rental of Rs. 45/- He continued as a tenant holding over in regard to that room. Subsequently another room was leased out to him on a monthly rental of Rs. 40/- payable at the end of every month. The rental for both the rooms was exclusive of the electric charges. The rent upto 31/1/1952 alone was paid by M.K. Krishnan. About February 1952 he absconded from Mangalore, and the officers of the Police Department took possession of the premises where the valuables and furniture belonging to Krishnan were kept. The officers used the electric lights and fans in the premises. In I.P.1/1952 M.K. Krishnan was adjudged an insolvent on the application of the creditors and on 20-3-1952 the 1st defendant was appointed interim receiver of his properties. The official Receiver of South Kanara took possession of all the valuables furniture and other articles in the suit premises and auctioned them and realised a sum of Rs. 1500/- thereby. The 1st defendant Official Receiver handed over vacant possession of one of the rooms on 1-10-1952 and the other room on 12-1-1953. There was no valid disclaimer by him. He is therefore liable to pay plaintiff the arrears of rent and the electric charges from the assets of the insolvent in his hands. Permission of the Insolvency court was obtained for filing this suit. The 2nd defendant took possession of the premises about February 1952 and had it locked up. If the disclaimer put forward by the 1st defendant is held to be valid, then the plaintiff is entitled to get a decree for damage for use and occupation of the premises from 1-2-1952 to 12-1-1953 from the 2nd defendant the state of Madras. The plaintiff is also entitled to the electric charges amounting to Rs. 81.10.0. He is entitled to claim rent for the two rooms in suit, amounting to Rs. 830/-.

3. The 1st defendant contends that the suit as framed is not maintainable, that it is bad for want of a notice under Section 80 C.P.C., and that he is not maintainable that he is not liable to pay the rent claimed for the electric charges. It is alleged in his written statement that by a letter dated 15-9-1952, he disclaimed the lease and that he was put in possession of the movables in the room only on 7-11-1952. It is contended by him that at best, the estate of the insolvent could be held liable only for damages for use and occupation of a portion of the building from 7-11-1952 to 10-1-1953.

4. The 2nd defendant the State of Madras contends that on a complaint against M.K. Krishnan that he had stopped his business of running a chit fund in the suit premises by

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the night of February 1952 and had absconded, the police took up investigation of the case and for that purpose the police got the keys of the room from the Head Clerk of the firm run by Krishnan. It is not to be contended that the Police officers were only visiting the premises in the course of investigation. They were not in occupation of the building, to make the Government liable for payment of rent or damages for use and occupation. The 1st defendant further contends that the plaintiff is not entitled to recover any sum by way of electric charges.

5. The points that arise for determination are:

1. Whether the suit as framed is not maintainable?
2. Whether the suit is bad for want of notice under section 80 C.F.C. to the 1st defendant?
3. Whether the plaintiff is entitled to claim rent or damages for use and occupation from the 1st defendant or the 2nd defendant?
4. What is the period for which the rent or damages for use and occupation could be claimed?
5. Whether the plaintiff is entitled to claim any sum by way of electric charges from any of the defendants?

6. POINT 1. A copy of the Memorandum of Association of the plaintiff Hataka Sabha, has been marked as Exhibit A.1. The 1st defendant's learned advocate drew my attention to rule 12(c) of the rules and argued that the suit as framed is not maintainable. According to that rule, the General Secretary of the Sabha is the person competent to sue or be sued on behalf of the Sabha in any court of law. The evidence of P.S.I. shows that he is the President of it, and that the General Secretary is one V.P. Pinto. The latter's name finds a place in the plaint, but the Sabha is stated to be represented by three persons, the President, P.S.I., and two others, i.e., the Secretary and the Treasurer. P.S.I. admitted in cross examination that Sri V.P. Pinto, aforesaid, has now ceased to be the General Secretary and that somebody else is the General Secretary. It was also argued that the plaintiff Sabha has not been properly represented and that the suit must be dismissed. No doubt, in the plaint, while referring to Sri V.P. Pinto, it is only stated as Secretary and not as General Secretary. But I should think that it is only a clerical error. The plaintiff's advocate relied upon the decision in Tufan Pandey v. Marayana Charitikal, reported in A.I.R. 1928 Madras 307, and argued that merely because Sri V.P. Pinto has ceased to be the General Secretary of the plaintiff Sabha, the suit cannot be dismissed. It has been pointed out in that decision that a trustee of an institution who filed a suit, can continue to do so even after he ceases to be a trustee and that the policy of the law is that a decree obtained by him will ensure for the benefit of the trust itself and may be enforced by his successor, if there be one. Following that decision, I hold that the suit as framed is maintainable.

7. POINT 2. The 1st defendant's learned Advocate pointed out that as the plaintiff has not given notice under section 80 C.F.C. to the official receiver, the suit is not maintainable. In support of his argument, he relied upon the decision in Wilson Versus Mahmul reported in A.I.R. 1930 Madras 158. It has been held therein that where an official Assignee, who took possession of certain goods believing them to be the insolvent's property, but which ultimately turned out not to be his property, and where he was sued for damages, a notice under section 80 C.F.C. is necessary. The plaintiff's advocate drew my attention to a decision, which is in all cases, with the present case, given by the Calcutta High Court in Debenra Ray Versus Official Receiver, reported in A.I.R. 1938 Calcutta 191. It has been

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held therein that in a suit against an official Receiver of an estate for recovery of arrears of rent, notice under section 80 C.P.C. is not necessary as the omission of the Receiver to pay up the rent is an act purporting to have been done by him in his official capacity. In the Madras case, certain movables were taken possession of by the Official Assignee purporting to act legally, but the goods turned out to be those not belonging to the insolvent. That decision would not apply to the case on hand. I hold that the suit is not barred by notice under section 80 C.P.C. to the 1st Defendant.

8. POINT 3. F.W.1, the President of the plaintiff Sabha, stated that the premises in question were leased out to one Krishnan on a monthly rent of Rs. 65/- and that the rent from 1.9.1952 had not been paid. His evidence was to the effect that he got possession of one of the two rooms from the police on 1.10.52 and that the other room was handed over to him by the Official Receiver on 12.1.1953. His evidence in cross examination was that he was always seeing the police officers visiting the premises and that the rooms were kept under the lock and key of the Police and were also sealed. Evidence has been adduced on the 2nd defendant's side to show that on a complaint by some persons that Krishnan aforesaid, who was running the New Devela Daily Auction Cart in the premises in question had absconded, the police took up investigation of the case and that for that purpose, they were keeping the rooms sealed as there were valuable articles therein such as iron safe account books and other documents. D.W.1 was the Sub Inspector of Police attached to the Crime Section of Marollore South Police Station in March 1952. He got Exhibit B-10 from the District Magistrate and registered it as Crime No. 59-1952 for an offence under section 420 I.P.C. and started investigation. He went over to the premises in question on 4.6.1952. Shortly thereafter, he handed over charge and the investigation was continued by D.W.2, another Sub Inspector who was attached to the District Intelligence Bureau. D.W.1 stated that he got the key of the room from the Head Clerk of the firm. According to D.W.2, the investigation was over in September 1952 and the official Receiver took possession of the premises between 18.9.1952 and the end of October. The 1st defendant contends that he got possession of the premises in one of the rooms alone on 7.11.1952 as noted in Exhibit B-3 and that therefore, the estate of the insolvent would not be liable to pay the rent for the prior period. It is alleged in the 1st defendant's written statement that at best the insolvent would be liable to pay damages for use and occupation only from 7.11.1952 to 10.1.53 in respect of one room.

9. It was argued on behalf of the 1st defendant that there was a valid disclaimer of the lease as per exhibit I-6 on 15.9.1952 and that, therefore, no rent could be claimed by the plaintiff from him. It has been held in *MAHADEV - Versus Jai Narain* reported in A.I.F. 1921 Nagpur 10 that as regards onerous property, such as leases, the insolvency court or Receiver has the right to elect whether they will accept or repudiate the leasehold property belonging to the insolvent and that unless he accepts it, such property is not considered to vest in him. The application for adjudging Krishnan as insolvent was filed by the creditors about the beginning of March 1952. The official Receiver was appointed Interim Receiver to take charge of assets of the insolvent on 20.3.1952 (see exhibit-B1.) It was about 6 months thereafter that we find the official Receiver disclaiming the lease as per exhibit B-6. There is evidence to show that the movables belonging to the insolvent, such as the iron safe, articles of furniture etc.,

66/11

were in the premises in question when the official Receiver was actually given possession, as per the receipt Exhibit Bg. "A disclaimer as per Exhibit B-6 cannot be considered to be a valid one, for the articles were all in the premises in question. The Official Receiver did not remove them and give vacant possession to the plaintiff-lessor. He was corresponding with the Police Department as well as with the Sub Divisional Magistrate at Mangalore, for taking possession of the premises. Exhibit E-2 is a copy of a letter written by him in March 1952 within 5 days after he was appointed Interim Receiver, to the D.S.P. of South Canara, stating that the premises in question are kept locked and sealed by the S.H.O. and that he (Official Receiver) may be put in possession of the assets. Exhibit E-3 is a copy of a letter written by him about the end of March 1952 to the sub court S. Kanara informing that he was unable to take possession of the premises because it was kept locked and sealed by the S.H.O. Mangalore. In May 1952 he has addressed a letter to the Sub Divisional Magistrate at Mangalore stating that he had been asked to take possession of the account books, documents and other assets of the debtor Krishnan and that he may be put in possession of the assets at an early date. Thus, it cannot be said that immediately after he was appointed Interim Receiver, he disclaimed interest in the lease. He did not actually remove the articles i.e. the moveables in the premises immediately after Exhibit B-6. A perusal of Exhibit E-7 would show that he auctioned all the moveables in the premises and that he left the building vacant only on 10.1.1953. The Vice-President of the plaintiff Sabha has received the key of one of the rooms of the building from the official Receiver on 10.1.53. The police officers were bound to investigate the case when they got Exhibit B-10. It was also necessary for them to seal the premises because it contained the accounts and documents relating to the chit fund conducted by M.K. Krishnan. It cannot for a moment be argued that the Police Dept. was in occupation of the premises and that even though there was no rental agreement between the department and the plaintiff, still, the state of Madras would be liable to pay damages for use and occupation. The official Receiver was admittedly in actual possession of one of the rooms from 7.11.52 to 10.1.53. The case in the written statement that the 1st defendant was put in possession of only the moveables in the building on 7.11.1952 and that he was not in possession of the building cannot be accepted. I hold that the plaintiff is entitled to claim rent from the 1st defendant.

10. Point 4: In the plaint, rent has been claimed for the two rooms at Rs. 85/- from 1.2.52 to 30.9.52 and for one room at Rs. 45/- from 1.10.1952 to 12.1.53. The plaintiff's advocate has made an endorsement on the plaint that so far as the rent due for the period from 1.2.52 to 3.3.1952, he would prove the same before the Official Receiver. As per Exhibit E-7 the keys of one of the rooms was received by the Vice President of the plaintiff society on 10.1.53. Therefore, the plaintiff can claim rent from 4.3.52 to 10.1.53.

11. The plaintiff's first witness stated that he got possession of one of the rooms on 1.10.52 from the police and that the possession of the other room was given by the official Receiver. D.W. 2 has given evidence to the effect that even in July 1952 he gave possession of one of the rooms to Fr. George Albuquerque one of the promoters of the plaintiff Sabha. There is no documentary proof in regard to handing over possession of one of the rooms in July 1952. Further, in the reply notice Exhibit A3 sent by the Dt. Supdt. of police to the plaintiff's advocate on 4.3.53 there is no reference to the handing over possession of one of the rooms in July 1952 to the lessor's representative. Therefore, I believe P.W. 1 when he states that he got possession of one of the rooms on 1.10.52. Thus, the plaintiff would be entitled to claim rent from 4.3.52 till 30.9.52 for both the rooms i.e. at Rs. 85 p.m and for one room from 1.10.52 till 10.1.52 at Rs. 45 p.m. The point is found accordingly.

12. Point 5: A sum of Rs. 81-10-0 is claimed by the

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65/4

D E C R E E
IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA

Present: Sri T.S. Anavaradhan, M.A.B.L., Principal Subordinate Judge,

Friday, the 9th day of April 1954.

Small cause suit No.55/1953.

Between:

Konkani Naraka Sabha represented by the
President (1) Rev. Fr. Philip Mari O.F.M.
Cap. (2) Mr. V.P.M. Pinto, Secretary
(3) Joseph M.D. Souza Treasurer.
All the three reside in Mangalore town. } Plaintiff.

and

1. The Official Receiver of South Kanara.
representing the State of M.K. Krishnan,
Insolvent in I.P. 1/1952 of Sub Court,
South Kanara. } Defendants.
2. The State of Madras - notice to be
served on the Secretary to the State
of Madras.

Suit to recover Rs.921.10.0 made up of (1) Rs.680
being rent of premises R.S.No.91-14-259C and 259 D from
1-2-1952 to 30-9-1952 at Rs.85/- p.m. (2) Electric charges of
both the premises from 1-2-52 to 30-9-1952 i.e. Rs.56.10.0
(3) Rs.150/- being rent of T.S.No.91/14/259H from 1-10-1952
upto 12-1-1953 at Rs.45 p.m and (4) Rs.25/- being electric cur-
-ent charges from 1-10-1952 to 12-1-1953; and (5) Rs.10.-
being costs of registered notice.

Cause of action for the suit arose on 1-2-1952
and subsequently in Mangalore town.

Claim valued at Rs.921.10.0.

Claim presented on 12-6-1953.

DECREE: This suit coming on the 2nd day of April 1954, for
final hearing before me in the presence of Sri M.V. Kamath,
Advocate ~~and~~ for Plaintiff of Sri M.A. Kamath Pleader for 1st
defendant/and having stood over to this day for consideration
the court doth hereby order and decree as follows: -
1. That the 1st defendant do, from the assets of the insolvent
M.A. Krishnan in his hands, pay plaintiff (a) Rs.736.8.0
towards the plaint claim as allowed; and (b) Rs.102.10.10 with
interest thereon at 6% p.a. from this date till payment towards
the proportionate costs of plaintiff in this suit.
2. That the plaintiff do pay 1st defendant Rs.9.3.0 on account
of the 1st defendant's proportionate costs on the sum disallowed.
3. That the suit as against the 2nd defendant be and hereby is
dismissed and that the plaintiff do pay the 2nd defendant
Rs.46.1.0 for the 2nd defendant's costs in opposing the suit.

Costs of suit.

	Plaintiff	1st deft.	2nd deft.
stamp on plaint.	69.12.0		
" Vakalat.	1.0.0	1.0.0	
" petitions.	3.0.0		
" Process.	5.7.0		
witness batta	2.10.0		
process writing fee	0.7.6		
Pleader's fee	46.1.0	45.0.0	46.1.0 pay- able.

128-5-6

46-020

46-1-0

Given under my hand and the seal of the court this 9th
day of April 1954.

(True copy*)

Sd/- T.S. Anavaradhan
Principal Subordinate Judge.

Laud of Sri B.G. Desai, Joint Pleader for 2nd defendant

पुनर्विचार (T)
Y' on p 9 a k

Please see the letter from the Collector of South Kanara and its enclosures on pp.3-9 ante. In the suit filed by the Konkani Nataka Sabha, Mangalore against the Official Receiver of South Kanara and the State of Madras for the recovery of rent and electric consumption charges in respect of premises No.259- D T.S. No.91-14 of Mangalore town, the Principal Subordinate Judge of South Kanara has ordered as follows:-

- 1) that the official Receiver should, from the assets of the insolvent M.K.Krishnan, pay the Konkani Nataka Sabha (a) Rs.736-8-0 towards the 'plaint claim as allowed; and (b) Rs.102-10-10 with interest thereon at 6% p.a. from 9-4-54 to the date of payment towards the proportionate costs of Konkani Nataka Sabha;
- 2) that the Konkani Nataka Sabha should pay the Official Receiver Rs.9-3-0 on account of the Official Receiver's proportionate costs on the sum disallowed; and
- 3) that the suit against the State of Madras be dismissed and that the Konkani Nataka Sabha should pay the State of Madras Rs.46-1-0 towards costs.

चप M ~ 4.4.54 (T)
in an s a issue X

The State of Madras has been impleaded in the above case as the officers of the Police Dept. ~~have~~ alleged to have taken possession of the premises while investigating the case against M.K.Krishnan. The Collector of South Kanara will no doubt take necessary action for the recovery of the costs allowed to Government, namely, Rs.46-1-0 from the Konkani Nataka Sabha. //This may therefore be

70

transferred to Courts III for further action.

5.6.54
6/6/54

1069 Cts III

(Cts III)

AS

Phase further note on p 10 ante

This section is concerned with the
action taken in respect of
items (1) and (2) on p 10 ante the
High Court - maybe considered with
first instance

Draft letter for approval

23/6/54
23

Imre 24/6/54

122
2hrs Cmts III
7.6.54
7.6.54
12.1.54
12

71/11
Home Dept.

Dr / Reg. 56162 dt 11/11/54-1824/54

To

Spencer 8/7/54

The Vacation Officer
High Court, Madras.
(with pp 4-9cf)

46
2-16

Sir,

Suits - S.C. no.
55/53 under file of the
Sub Judge, South Kanara.
Payment of claim by the
D.R., S. Kanara.

With reference to the
Judgment and decree in the
above case, I am to request
that the Court may
be informed at an early date
whether the D.R., S. Kanara
has paid the amounts due
plaintiff as allowed by the
Court, and (2) recovered the
amount allowed to be paid to
him by the plaintiff.

A copy of the Judgment &
B decree is enclosed for ready
23/6/54 reference and return

R.D. - Inamti

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24/6/54

73
14
Home Dept

ns
27/7
Jot
28/7

hr. Ry. 56162 ds 111/54-2 26/7/54

To
The Registrar, High Court
Madras.

Sir,

Sub: Suits - S.C. No 55/53 on
the ~~sub~~ file of the Sub
Judge, South Kanara -
Payment of claim by
the Official Receiver,
S. Kanara

Ref. My letter No 56162 ds 111
54-1 24/6/54

— x —

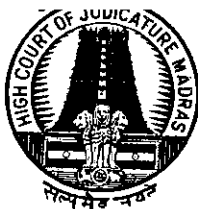
I am to ~~report~~ ^{enquire}
when a reply to the letter
cited may be expected

Y.F

RD. 27/8/54.

24/7/54
24.7.54

26.7.54



75/4/1

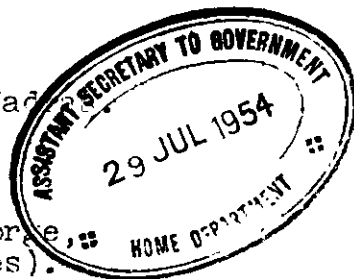
R.O.C.No.4118/54-B1.

From

Sri R. Jayaram Ayyar, M.A., B.L.,
Registrar, High Court, Madras

To

The Secretary to Government,
Home Department, Fort St. George,
Madras (with enclosures).



Sir,

-- Madras, dated 27--7--1954.

Sub: Suits - S.C.No.55/53 Sub Judge, South Kanara
- Decree - payment of amount due under -

Ref: Home Secretary's letter 56/62 Cts.III-54-1
dated 24--6--1954.

102076

I enclose a copy of letter Dis.No.4058/54

dated 20-7-1954 from the District Judge, South Kanara.

The copy of the Judgment and Decree in the
above suit are also returned herewith.

J. Jayaram

REGISTRAR.

CEV

RW

77/18

Copy of letter No.Dis.4058 of 1954 from the District Judge,
South Kanara to the Registrar, High Court, Madras dated 20-7-1954.

Sub: Suits - S.C.No.55 of 1953 on the file of the Sub
Judge, South Kanara - Payment of claim by the
Official Receiver, South Kanara.

Ref: High Court R.O.C.No.4118/1954-B1 dated 12-7-1954.

As per Jc

The Official Receiver of South Kanara reports
that after setting off the amount of Rs.9-3-0 due to him from
the plaintiff under the decree in the above suit, he has paid
the balance amount of Rs.841-5-0 due from him under the
above decree to the plaintiff's advocate in full satisfaction
of the decree against the Official Receiver.

(Sd.).....
District Judge.

(True copy)

High Court, Madras,

Dated 27--7--1954.

R Narayanamma

25/7
Sub-Assistant Registrar, A.D.

CEV R

76

Copy of HK 4-9 ante

-IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA.

PRESIDENT: Sri T.S. Anavaradham, M.A., B.L.,
Principal Subordinate Judge.
Friday, the 9th day of April 1954.
Small cause No. 55/1953.

BETWEEN:

- Konkani Nataka Sabha, represented by the President, Plaintiff.
1. Rev. Fr. Philip Neri, O.F.M. Cap.
 2. Mr. V.P.M. Pinto, Secretary.
 3. Joseph M^d Souza Treasurer.
- and
1. The official Receiver of South Kanara representing the Estate of N.K. Krishnan Insolvent in I.P.1/1952 of Sub-Court, S.K. (2) The State of Madras. Defendants.

This suit coming on the 2nd day of April 1954, for final hearing before me in the presence of Sri M.V. Kamath, Advocate for Plaintiff of Sri M.A. Kamath, Pleader for 1st defendant and of Sri B.G. Das, Government pleader for 2nd defendant and having stood over to this day for consideration; the court delivered the following:

JUDGMENT.

Suit for recovery of Rs. 911-10-0.

2. The case of the plaintiff, in brief is as follows:- The suit properties were leased to one M.K. Krishnan, the insolvent in I.P.1/1952 prior to his insolvency. One of the two rooms in suit were leased to him by a deed dated 31-7-1950, for period of 11 months commencing from 1-8-1950 on a monthly rental of Rs. 45/- He continued as a tenant holding over in regard to that room. Subsequently another room was leased out to him on a monthly rental of Rs. 40/- payable at the end of every month. The rental for both the rooms was exclusive of the electric charges. The rent upto 31-1-1952 alone was paid by M.K. Krishnan. About February 1952 he absconded from Mangalore, and the officers of the police Department took possession of the premises where the valuables and furniture belonging to Krishnan were kept. The officers used the electric lights and fans in the premises. In I.P.1/1952 M.K. Krishnan was adjudged an insolvent on the application of the creditors and on 20-3-1952 the 1st defendant was appointed interim receiver of his properties. The official Receiver of South Kanara took possession of all the valuables furniture and other articles in the suit premises and auctioned them and realised a sum of Rs. 1500/- thereby. The 1st defendant Official Receiver handed over vacant possession of one of the rooms on 1-10-1952 and the other room on 12-1-1953. There was no valid disclaimer by him. He is therefore liable to pay plaintiff the arrears of rent and the electric charges from the assets of the insolvent in his hands. Permission of the Insolvency court was obtained for filing this suit. The 2nd defendant took possession of the premises about February 1952 and had it locked up. If the disclaimer put forward by the 1st defendant is held to be valid, then the plaintiff is entitled to get a decree for damage for the use and occupation of the premises from 1.2.1952 to 12-1-1953 from the 2nd defendant the state of Madras. The plaintiff is also entitled to the electric charges amounting to Rs. 81-10-0. He is entitled to ~~the electric charges amounting to Rs. 81-10-0~~ claim rent for the two rooms in suit, amounting to Rs. 830/-.

2/2/

3. The 1st defendant contends that the suit as framed is not maintainable, that it is bad for want of a notice under section 80 C.P.C., and that ~~he~~ he is not liable to pay the rent claimed for the electric charges. It is alleged in his written statement that by a letter dated 15-9-1952, he disclaimed the lease and that he was put in possession of the movables in the room only on 7-11-1952. It is contended by him that at best, the estate of the insolvent could be held liable only for damages for use and occupation of a portion of the building from 7-11-1952 to 10-1-1953.

4. The 2nd defendant the State of Madras contends that on a complaint against M. K. Krishnan that he had stopped his business of running a chit fund in the suit presises by the end of February 1952 and had absconded, the police took up investigation of the case and that for that purpose the police got the keys of the room from the Head Clerk of the firm run by Krishnan. It is further contended that the Police officers were only visiting the pre-mises in the course of investigation and that they were not in occupation of the building to make the Government liable for payment of rent or damages for use and ~~xxx~~ occupation. The 2nd defendant further contends that the plaintiff is not entitled to recover any sum by way of electric charges.

5. ~~Whether the plaintiff is entitled to claim any sum by way of electric charges from any of the defendants?~~

5. The points that arise for determination are:

1. Whether the suit as framed is not maintainable?
2. Whether the suit is bad for want of a notice under section 80 C.P.C. to the 1st defendant?
3. Whether the plaintiff is entitled to claim rent or damages for use and occupation from the 1st defendant or the 2nd defendant?
4. What is the period for which the rent or damages for use and occupation could be claimed?
5. Whether the plaintiff is entitled to claim any sum by way of electric charges from any of the defendants?

6. POINT 1. A copy of the memorandum of Association of the plaintiff Nataka Sabha, has been marked as Exhibit A.1. The 1st defendat's learned advocate drew my attention to rule 12(d) of the rules and argued that the suit as framed is not maintainable. According to that rule, the General Secretary of the Sabha is the person competent to sue or be sued on behalf of the Sabha in any court of law. The evidence of P.W.1 shows that he is President of it, and that the General Secretary is one V.P. Pinto. The latter's name finds a place in the plaint, but the Sabha is stated to be represented by three persons, the President, P.W.1, and 2 others, i.e. the Secretary and the Treasurer, P.W.1 admitted in cross examination that Sri V.P. Pinto, aforesaid, has now ceased to be the General Secretary and that somebody else is the General Secretary. It was therefore, argued that the plaintiff Sabha has not been properly represented and that the suit must be dismissed. No doubt in the plaint, while referring to Sri V.P. Pinto, it is only stated as Secretary and not as General Secretary. But I should think that it is only a clerical error. The plaintiff's advocate relied upon the decision in Ittunan Panikar V. Narayana Bharatikal, reported in A. I.R. 1928 Madras 607 and argued that merely because Sri V.P. Pinto has ceased to be the General Secretary of the Plaintiff Sabha, the suit cannot be dismissed. It has been pointed out in that decision that a trustee of an institution who filed suit, can continue it even after ceases to be a trustee and that the policy of the law is that a decree obtained by him will ensure for the benefit of the trust itself and may be enforced by his successor, if there he ~~own~~. Following that decision, I hold that the suit as framed is maintainable.

7. POINTS 2 The 1st defendant's learned advocate pointed out that as the plaintiff has not given notice under section 80 C.P.C. to the official receiver, the suit is not maintainable. In support of his argument, he relied upon the decision in Wilson versus Nathmull reported in A. I.R. 1930 Madras 158.

It has been held therein that where an official Assignee, who took possession of certain goods believing them to be the insolvent's property, but which ultimately turned out not to be his property and where he was sued for damages, a notice under section 80 C.P.C. is necessary. The plaintiff's advocate drew my attention to a decision, which is on all fours, with the present case, given by the Calcutta High Court in Debendra Nath Roy versus Official Receiver, reported in A.L.R. 1938 Calcutta 191. It has been held therein that in a suit against an official Receiver of an estate for recovery of arrears of rent, notice under section 80 C.P.C. is not necessary as the omission of the Receiver to pay up the rent is not an act purporting to have been done by him in his official capacity. In the Madras case, certain movables were taken possession of by the official ~~Assignee~~ Assignee purporting to act legally, but the goods turned out to be those not belonging to the insolvent. The decision would not apply to the case on hand. I hold that the suit is not bad for want of a notice under section 80 C.P.C. to the 1st defendant.

8 Points 3 P.W.1. The president of the plaintiff Sabha, stated that the premises in question were leased out to one Krishnan on a monthly rent of Rs. 85/- and that the rent from 1-2-1952 had not been paid. His evidence was to the effect that he got possession of one of the two rooms from the police on 1-10-1952 and that the other room was handed over to him by the official Receiver on 12-1-1953. His evidence in cross examination was that he was always seeing the police officers visiting the premises and that the rooms were kept under the lock and key of the Police and were also sealed. Evidence has been adduced on the 2nd defendant's side to show that on a complaint by some persons that Krishnan aforesaid, who was running the New Derela Daily Auction Chit in the premises in question had absconded, the police took up investigation of the case and that for that purpose, they were keeping the rooms sealed as there were valuable articles therein such as iron safe account books and other documents. D.W.1 was the Sub Inspector of Police attached to the Crime Section of the Mangalore South Police Station in March 1952. He got exhibit B.10 from the District Magistrate and registered it as crime No. 59-1952 for an offence under section 420 I.P.C. and started investigation. He went over to the premises in question on 4-3-1952. Shortly thereafter, he handed over charge and the investigation was continued by D.W.2, another Sub-Inspector who was attached to the District Intelligence Bureau. D.W.1 stated that he got the key of the room from the Head clerk of the firm. According to D.W.2, the investigation was over in September 1952 and the official Receiver took possession of the samans between 18-9-1952 and the end of October. The 1st defendant contends that he got possession of the samans in one of the rooms alone on 7-11-1952 as noted in Exhibit B-8 and that therefore, the estate of the insolvent would not be liable to pay the rent for the prior period. ~~It is alleged in the 1st defendant's contents that he got possession of the samans in one of the rooms alone on 7-11-1952 as noted in Exhibit B-8 and that therefore, the estate of the insolvent would not be liable to pay the rent for the prior period.~~ It is alleged in the 1st defendant's written statement that at best the insolvent would be liable to pay damages for use and occupation only from 7-11-1952 to 10-1-1953 in respect of one room.

85/76

9. It was argued on behalf of the 1st defendant that there was a valid disclaimer of the lease as per exhibit B-6 on 15-9-1952 and that, therefore, no rent could be claimed by the plaintiff from him. It has been held in Mahadev - Versus Jai Narain reported in A. I. R. 1921 Nagpur 10 that as regards owners property, such as leases, the insolvency court or Receiver has the right to elect whether they will accept or repudiate the leasehold property belonging to the insolvent and that unless he accepts it, such property is not considered to vest in him. The application for adjudging Krishnan as insolvent was filed by the creditors about the beginning of March 1952. The official Receiver was appointed interim Receiver to take charge of assets of the insolvent on 20-3-1952 (see exhibit B1.) It was about 6 months thereafter that we find the official Receiver disclaiming the lease as per exhibit B-6. There is evidence to show that the movables belonging to the insolvent, such as the iron safe, articles of furniture etc., were in the premises in question when the official Receiver was actually given possession, as per the receipt Exhibit B3. The disclaimer as per Exhibit B6 cannot be considered to be a valid one, for the articles were all in the premises in question. The Official Receiver did not remove them and give vacant possession to the plaintiff-lessor. He was corresponding with Magistrate at Mangalore, for taking possession of the premises. Exhibit B-2 is a copy of a letter written by him in March 1952 within 5 days after he was appointed Interim Receiver, to the D. S. P. of South Kanara, stating that the premises in question are kept locked and sealed by the S. H. O and that he (Official Receiver) may be put in possession of the assets. Exhibit B-8 is a copy of a letter written by him about the end of March 1952 to the sub court S. Kanara informing that he was unable to take possession of the premises because it was kept locked and sealed by the S. H. O. Mangalore. In May 1952 he has addressed a letter to the Sub Divisional Magistrate at Mangalore stating that he had been asked to take possession of the account books, documents and other assets of the debtor Krishnan and that he may be put in possession of the assets at an early date. Thus, it cannot be said that immediately after he was appointed interim Receiver, He disclaimed interest in the lease. He did not actually remove the articles i.e. the movables in the premises immediately after Exhibit B. 6. A perusal of Exhibit B-7 would show that he auctioned all the movables in the premises and that he left the building vacant only on 10-1-1953. The Vice - President of the plaintiff Sabha has received the key of one of the rooms of the building from the official Receiver on 10-1-53. The police officers were bound to investigate the case when they got Exhibit B-10. It was also necessary for them to seal the premises because it contained the accounts and documents relating to the chit fund conducted by M. K. Krishnan. It cannot for a moment be argued that the police department was in occupation of the premises and that even though there was rental agreement between the department and the plaintiff still, the state of Madras would be liable to pay damages for use and occupation. The official Reveiver was admittedly in actual possession of one of the rooms from 7 -11-1952 to 10-1-1953. The case in the written statement that the 1st defendant was put in possession of only the moveables in the building on 7-11-1952 and that he was not in possession of the building cannot be accepted. I hold that the plaintiff is entitled to claim rent from the 1st defendant.

With the Police
Dept. as well as
with the S. H. O.
Divisional

87/11

30.9.52 and
for one room
at Rs. 45/-
from 1.10.52
to

10. Point 4: In the plaint, rent has been claimed for the two rooms at Rs. 85/- from 1-2-52 to 12-1-53. The plaintiff's advocate has made an endorsement on the plaint that so far as the rent due for the period from 1-2-52 to 3-3-1952 he would prove the same before the official Receiver. As per Exhibit B-7 the keys of one of the rooms was received by the Vice President of the plaintiff society on 10-1-52. Therefore, the plaintiff can claim rent from 4-3-1952 to 10-1-1953.

11. The plaintiff's first witness stated that he got possession of one of the rooms on 1-10-52 from the police and that the possession of the other room was given by the official Receiver. P.W. 2 has given evidence to the effect that even in July 1952 he gave possession of one of the rooms to Fr. George Albuquerque one of the promoters of the plaintiff Sabha. There is no documentary proof in regard to handing over possession of one of the rooms in July 1952 to the lessor's representative. Therefore, I believe P.W. 1 when he states that he got possession of one of the rooms on 1-10-1952. Thus, the plaintiff would be entitled to claim rent from 4-3-1952 till 30-9-1952 ~~till 10-1-1953 at Rs. 45/- p.m.~~ for both the rooms at Rs. 85/- p.m. and for one room from 1-10-52 till 10-1-53 at Rs. 45/- p.m. The point is found accordingly.

Albuquerque
Further in the
reply notice
Exhibit A3
Sent by the S.P.
to the plaintiff
advocate on
4.3.53 there is
no reference to the
handing over possession
of one of the rooms in
July 1952

12. Point 5: A sum of Rs. 81-10-0 is claimed by the plaintiff

p.t.o

6

8/7

12. Point 5. A sum of Rs 81/10/0 is claimed by the plaintiff by way of electric charges. Apart from the oral evidence of P.W.1 there is nothing to show how much of electric current was consumed during the suit period. P.W.1 stated in cross-examination that there is a sub meter for the two rooms in question and that the reading of it was made in January 1952 and that later on it was read in October 1952 when he got possession of one of the rooms from the Police. There is evidence to show that the insolvent was occupying the premises in January 1952. The allegation in the plaint is that in about February 1952 he absconded. Thus, after the reading was taken in January the premises were in the possession of Krishnan for some time. The plaintiff has made an endorsement on the plaint to the effect that so far as the arrears of rent from 1-2-52 to 3-3-52 are concerned he will prove it as a claim before the official Receiver. Thus, it is not possible to determine how much current was consumed during the suit period. There is no record to show what the meter reading was on the date the plaintiff got possession of the premises. Thus, from the evidence of P.W.1 I cannot conclude that the plaintiff is entitled to claim Rs.81 and odd by way of electric charges. I hold the plaintiff is not entitled to claim any sum as electric charges from any of the defendants.

13. In the result there will be a decree for Rs.736-8-0 and proportionate costs against the 1st defendant, recoverable from the assets of the insolvent M.K.Krishnan in his hands. On the sum disallowed, the plaintiff will pay the costs of the 1st defendant. The suit as against the 2nd defendant is dismissed with costs.

Dictated to the shorthand writer, the transcript revised by me and pronounced in open court this 9th day of April 1954

Sd/ T.S. Anavardham
Principal Subordinate Judge.

Appendix of evidence

Plaintiff's exhibits:-

- A1. Copy of memorandum of association and regulations of plaintiff society.
- A2. 4-10-52 Copy of lawyer's notice sent by plaintiff to the Collector of South Kanara and to police Department.
- A3. 4-3-53 Reply sent to plaintiff by the Dt. Supdt. of Police South Kanara.
- A4. 3-4-53 Copy of notice sent by plaintiff to 1st defendant.
- A5. 10-4-53 Acknowledgement slip of 1st defendant.
- A6. 1-4-53 Certified copy of order in R.I.A.840/53 in I.P.No. 1/52 on the file of this court.
- A7. 1951-52 Duplicate rent receipt book of plaintiff
- A8. 1-2-52 Counter foil of receipt passed by plaintiff to M. Krishnan Menon.

~~B1. 21-3-52~~ - 0

DEFENDANT'S EXHIBITS.

- B1. 21-3-52 Order of this court appointing 1st defendant as Interim receiver.
- B2. 25-3-52 Letter from 1st defendant to the D.S.P. of police S.Kanara
- B3. 28-3-52 Letter from 1st defendant to this court.
- B4. 5-4-52 -do- D.S.P. to 1st defendant.
- B5. 5-5-52 -do- 1st defendant to the S.S.M.,Mangalore.
- B6. 15-9-52 Letter by 1st defendant to the Vice President of the plaintiff society.
- B7. 10-1-53 -do- -do-
- B8. 5-11-52 List of moveables handed over to the 1st defendant by the S.I. of police, Mangalore.
- B9. 8-1-53 Sale list of moveable sold by 1st defendant
- B.10. 3-3-52 Petition sent by Vittal Kamath and others to the Dt. Magistrate against Krishnan.
- Bill -do- First information report registered as F.I.No.59/52 of Mangalore South station.
- B.12 4-3-52 Inventory of the properties found in the premises occupied by Krishnan.
- B.13 17-3-52 Report in form No.91 (list of properties sent to Magistrate)

Plaintiff's witness:

1. Rev.Father Philip Neri

Defendants' witness:

1.Sri M.K.Das.

2. Sri P.M.D' Souza

Sd/- xx xx

Principal Subordinate

D E C R E E

IN THE COURT OF THE SUBORDINATE JUDGE OF SOUTH KANARA.
Present: Sri T. S. Anavaradhan, M. A. & L., Principal
Subordinate Judge

Friday the 9th day of April 1954.
Small Cause suit No. 55/1953.

Between:

Koakani Nataka Sabha represented by the president | Plaintiff.
(1) Rev. Fr. Philip Neri O.F.M. Cap. (2) Mr. V.P.M. |
Pinto, Secretary (3) Josheph M.D. Souza Treasurer, |
All the three reside in Mangalore town. |

and

1. The Official Receiver of South Kanara repre- | Defendants.
senting the Estate of M.K. Krishnan, Insolvent in I.P. |
1/1953 of Sub Court, South Kanara. |
2. The State of Madras - notice to be served on the |
Secretary to the State of Madras. |

Suit to recover Rs. 921-10-0 made up of (1) Rs. 680
being rent of premises R. S. No. 91-14-259C and 259 D from 1-2-52
to 30-9-1952 at Rs. 85/- p.m. (2) Electric charges of both the
premises from 1-2-52 to 30-9-1952 i.e. Rs. 56-10-0 (3) Rs. 150/-
being rent of T. S. No. 91/14/259 from 1-10-1952 upto 12-1-1953 at
Rs. 45/- p.m. and (4) Rs. 25/- being electric current charges
from 1-10-1952 to 12-1-1953 and (5) Rs. 10/- being costs of
registered notice.

Cause of action for the suit arose on 1-2-1952 and
subsequently in Mangalore town.

Claim valued at Rs. 921-10-0.

Claim presented on 12-6-1953.

Decree: This suit coming on the 2nd day of April 1954, for
final hearing before me in the presence of Sri M. V. Kamath
Advocate for plaintiff of Sri MA. Kamath Pleader for 1st
defendant and having stood over to this day for consideration
the court doth hereby order and decree as follows:-

1. That the 1st defendant do, from the assets of the insolvent
M.K. Krishnan in his hands, pay plaintiff (a) Rs. 736-9-0
towards the plaint claim as allowed; and (b) Rs. 102-10-10 with
interest thereon at 6% p.a. from this date till payment towards
the proportionate costs of plaintiff in this suit.
2. That the plaintiff do pay 1st defendant Rs. 9-3-0 on account
of the 1st defendant's proportionate costs on the sum disallowed.
3. That the suit as against the 2nd defendant be and hereby is
dismissed and that the plaintiff do pay the 2nd defendant
Rs. 46-1-0 for the 2nd defendant's costs in opposing the suit.

Costs of suit. Plaintiff. 1st deft. 2nd deft.

Stamp on plaint.	69-12-0	~~1-1-0~~	
" Vakalat.	1-0-0	1-0-0	
" Petitions.	3-0-0		
" Process	5-7-0		
Witness batta	2-10-0		
Process writing fee	0-7-6		
Pleader's fee	46-1-0	45-0-0	46-1-0 pay- able.

-----	-----	-----
~~128-5-6~~	46-0-0	46-1-0
-----	-----	-----

GIVEN under my hand and the seal of the court this 9th
day of 1954.

/True copy/

rcd/27.6

Superintendent.

[CNO 56162/54]

92/34
Home (cts III) 100/86

Please see the note of
this section on p 11 ante and the
report of the District Judge,
South Kanara on p 18 ante
No further action is called for
in this section. The file may be
returned to Pol III section.

88
378/54 6
4/8/54

88
5/8/54

55 94

Home sept

----- Please see the note on
p. 10-11 anti, the letter to the Regr.
High Court on p. 12 anti and
the reply from the Regr on
p. 16 anti. With reference to items
(1) and (2) on p. 10 anti, it has been
reported that the Official
Receiver of South Kanara, after p. 18 anti
setting off the amount of Rs 9.3-0
due to him from the plaintiff
under the decree in S.C. No. 55
of 1953 on the file of the

95/26

p. 18 ante

sub judge, south Kanara, ~~he~~ has paid the balance amount of Rs. 841-5-0 due from him under the above decree to the plaintiff's advocate in full satisfaction of the decree against him.

X^o on p. 10 ante

With reference to item (3) on p. 10 ante, as already stated, the collr of south Kanara would have taken necessary action for the recovery of the costs allowed to Govt., namely Rs. 46-1-0 from the Honkarn Nantaraka Salika. No further action is called for in the file. May be filed with Cris. No. 2809, Home dated 3.9.53.

(T)

~~8.8.54.~~

~~9/8/53~~

~~11.8.53~~

Home (Cts.III) Dept

Suit - S.C. 55/53 on the file of the Sub Court
South Kanara - Sanction of defence of the State
of Madras.

Summons
Ref: Notice issued by the Sub Judge of South Kanara
dated 25.6.1953.

Summons
A suit notice has been served on the
State of Madras who is second respondent in S.C.55/53
on the file of the Sub Judge South Kanara.

In the plaint, the office bearers of the
Konkani Nataka Sabha (plaintiff), have stated that the
non-residential premises of Mangalore Town belonging
to them were obtained on monthly lease by one M.K.
Krishnan on a rent of Rs.45/- p.m for a period of 11
months from 1.8.50. Sri Krishnan is stated to have
also obtained on lease another adjoining upstairs room
on rent. The plaintiff Society have alleged that Sri
Krishnan paid rent upto 31.1.52 and in February 1952
he absconded from Mangalore and the premises were
taken possession of by the Officers of the Police Dept
of the 2nd Defendant (State of Madras) with all the
furniture etc. belonging to Sri Krishnan and that
the Officers were occupying the premises and making use
of the electric lights, fan etc apparently for the
purpose of investigation into the offence alleged
to have been committed by Sri Krishnan. Sri Krishnan
was subsequently adjudged as an insolvent and his
properties vested in the Official Receiver of South Kanara.
The Official Receiver is reported to have realised
Rs.1,500/- by sale of articles belonging to insolvent
and handed over the premises to the plaintiff on
12.1.53. The plaintiffs have stated that neither
the official Receiver nor the Police officers paid the
arrears of rent and electric charges and hence
they have preferred the suit.

para 3, p 4 CF

para 3 (b), p 4 CF

para 3 (c), p 4-5 CF

0-25-53

clrd

cf A, p 1 CF

1.9-11.2.53

p1 CP

The suit in question comes up for hearing on 15.7.53. Action will have to be taken to sanction the defence of the State of Madras. Apart from the information at 'A' on p.1 ante, it is not known who are the police officers involved in the case. A copy of the plaint has gone to the Collector and the District Superintendent of Police South Kanara. The Collector may, therefore, be asked to arrange for the representation of the State of Madras and to instruct the Government Pleader, South Kanara to get an adjournment of the case for a fortnight. He may also be asked to report to Govt. full details of the case through ^{the} I.G. of Police for sanctioning the defence of the State of Madras.

Not enclt
S, 1, 9 CL

BS

It may ^{be} noted that the defence of the Official Receiver of South Kanara who is the first respondent in the case will be arranged by the District Court to which he is attached.

(Circular)

A draft memo is sent for approval
(2) Legal may be requested to advise whether

action may be taken above as suggested above after time.

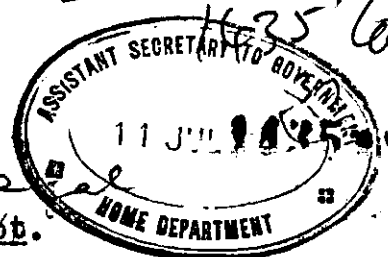
9/10/53
10/17/53
2/53

The draft memo may come legal
General Legal Dept. may call

Thro' Pol. III

BS
10/7/53
AS
10/7/53
DS3
10/7/53

10/2/53
Sundar CL
(a)



Legal (Drafting-A) Dept.

Seen in Legal. The alterations indicated in pencil on the draft may be made.

Home v.o. No. 141096 ch 11/53
10/7/53

Legal cm. 11284/53

10.7.53. (8454)

11.7.53
The suit entered the court

J.S. Home

Legal v.o. 11284/53
11/7/53

James Dept

The draft memo below may
now be as slightly amended by Legat.

168
11.7.53

6
11.7.53

P. 11 C.F.
P 15 C.F.
P. 26 C.F

[Issued as Express Memo No 141696 CH/53 dated 11.7.53]
[From the Collector of S. Kanara Ref A.316974/53 dated 28.7.53
From the collector of South Kanara ref. no
A3.16974/53 dated 4.8.53]

With ref. to the memo. on P. 11 C.F. Please
see the reports of the collector of South Kanara
on PP. 15 and 26 C.F. His further report referred
to at 2 on P. 26 C.F. may be awaited till
18.8.53.

LW

11
12.8.53

11.8.53

PP. 28-29 C.F

From the Sub D. G. of Police R. C. no. 619/Bnd/53 dated
18/19.8.53 - 8-53.

PP. 38-40 C.F

Tele. dated 25.8.53 from the collector of South Kanara.

Please see the further report of the collector
of South Kanara at 11.28-29 C.F. and the enclosure
to it on PP. 30-36 C.F. The telegram on PP. 38-40 C.F. may

PP. 38-40 C.F

also be perused. It is seen from the
telegram that the case has been postponed for
reopening on 27.8.53. As the draft written
statement at PP. 34-35 C.F. has to be

PP 24 25 C.F

submitted by the legal dept. it may take time
to approve the draft. As the case has been
postponed for 27.8.53 the collector of South
Kanara may be requested to by telegram
to obtain sufficient adjournment
for 2 weeks for filing written statement in the case.
of the case. Subject to orders the draft
telegram subd. is for approval.

11
26/8/53 LW 26.8.53

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26.8.53

11
26.8.53

12.26.8.53

(Issued as Telegram dated 26-8-1953) P.L. C.F

The file relates to the suit filed by the office bearers of the Konkani Nataka Sabha against the Government for recovery of arrears of rent and electric current charges for the non-residential premises in Mangalore town belonging to them which were taken possession of by the officers of the Police department (second defendant). Please see the note of this Department on pages 1-2 above. With reference to the memo. on p. 11 c.f., please see the reply of the Collector of South Kanara on pages 15, 26 and 28-29 c.f. He has requested the Govt. to sanction the defence of the State and has forwarded a copy of the draft written statement proposed by the Govt. Pleader, South Kanara to be filed on behalf of the State, for approval.

cf P. 11 c.f.

172841
29/8

W on P. 28 c.f.

PP. 32-35 c.f.

W on P. 28 c.f.

The Collector's proposal may be accepted and the defence of the State may be sanctioned. The draft order submitted is for approval. (The defence of the Govt. Pleader need not be sanctioned by the Govt.)

A
cf P. 11 c.f.
X on P. 15 c.f.

The file may be sent to Legal for scrutiny of the draft written statement at pages 32-35 c.f. Finance may also see.

29/8/53. W
29.8.53

29.8.53

11

29/8/53

29/8/53

cts. III

29/8/53
29/8/53

Legal C. 11064

29-8-53
5-40 PM

Legal (Fin)

Home - 2.0.17-2841
29-8-53

Page

Legal (Opinions-C) Dept.

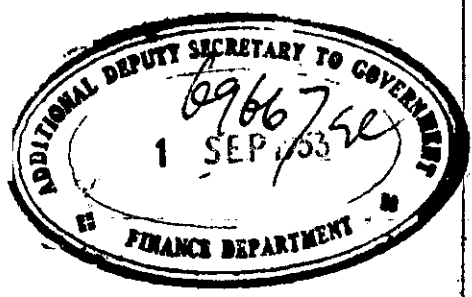
Subject to the alterations indicated in pencil on the draft written statement at pages 32-35.c.f., it is in order.

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2/9/53

Legation 14064/34
1/8/53

S
1-9-53

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J.S.



Finance

Fin(Expe)

The draft order below may be accepted

hat
1.9.53

Thro' Pension
1/9/53

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19/53

- Home

Name Dept.

Fin no 696672e1
2-9-53

[Previous note on P. 4 ante]

The note of legal and Fin. depts above (the alterations suggested by the legal dept. may be accepted in the dept) may be perused: the draft order below may now issue.



3/9/53
CW
3.9.53

1/2 2/9/53

(Issued as C.O. No. 2809.
dt 3.9.53)